



INDIA COUNTRY REPORT

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**Country Information & Policy Unit
IMMIGRATION & NATIONALITY DIRECTORATE
HOME OFFICE, UNITED KINGDOM**

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1. SCOPE OF DOCUMENT

1.1 This India Country report has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, for use by Home Office officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. It is not a detailed or comprehensive survey.

1.2 The Report is compiled from a wide range of recognised sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to original source material, which has been made available to those working in the asylum/human rights determination process. The Report aims to provide only a brief summary of the source material quoted. For a more detailed account, the relevant source documents should be examined directly.

1.3 The information contained in this Country Report is, by its nature, limited to information that we have been able to identify from various well-recognised sources. The contents of this Report are not exhaustive and the absence of information under any particular heading does not imply that any analysis or judgement has been exercised to exclude that information, but simply that relevant information on the subject has not been identified from the sources that have been consulted. Equally, the information included in the Reports should not be taken to imply anything beyond what is actually stated.

1.4 The great majority of the source material is readily available in the public domain. Copies of other source documents, such as those provided by government offices, may be provided upon request.

1.5 All sources have been checked for currency, and as far as can be ascertained, contain information, which remained relevant at the time, this Report was issued. Some source documents have been included because they contain relevant information not available in more recent documents.

1.6 This country Report and the accompanying source material are publicly disclosable. Where sources identified in this Report are available in electronic form the relevant link has been included. The date that the relevant link was accessed in preparing the report is also included. Paper copies of the source documents have been distributed to nominated officers within IND.

1.7 It is intended to revise the Report on a six-monthly basis while the country remains within the top 35 asylum producing countries in the United Kingdom. Information contained in Country Reports is inevitably overtaken by events that occur between the 6 monthly publications. Caseworkers are informed of such changes in country Information Bulletins.

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GEOGRAPHY

2.1 The Europa World Year book 1998 states that the Republic of India forms a natural sub-continent with the Himalayas to the north. The Arabian Sea and the Bay of Bengal, which are sections of the Indian Ocean, lie to the west and east respectively. India's neighbours are China (Tibet), Bhutan and Nepal to the north, Pakistan to the north-west, and Burma to the north-east. To the east, almost surrounded by India, is Bangladesh. Near India's southern tip, across the Palk Strait, is Sri Lanka. India covers an area of 3,287,623 square kilometres (1,269,219 square miles). [1a] As noted in the CIA World Factbook, the capital is New Delhi. [35]

2.2 In July 2002 the population was estimated to be 1,045,845,226. [35] According to a BBC news article dated 11 May 2000, Officially the one-billionth baby was born on 11 May 2000, according to the country's census commission. [32]

2.3 The Europa World Year book 1998 describes India as a mosaic of different cultures, ethnic groups, languages and religions. [1a]

2.4 The official language of India is Hindi written in the Devanagari script and spoken by some 30% of the population as a first language. Since 1965 English has been recognised as an "associated language". In addition there are 18 main and regional languages recognised for adoption as official state languages. There are another 24 languages, 720 dialects and 23 tribal languages. Among the main languages are Bengali (spoken by 8.2% of the population), Marathi (7.7%), Urdu (5.2%), Gujarati (4.7%), Bihari (3.8%), Oriya (3.6%), Telugu (3.5%), Tamil (3.2%) and Punjabi (3.0%). Other languages include Assamese, Kannada, Rajasthani and Kashmiri. Bihari and Rajasthani are variants of Hindi. [1a] More than 180 million people in India regard Hindi as their mother tongue, and another 300 million use it as a second language. There is controversy about the status of Punjabi, which can be considered as a dialect of Hindi, or as an independent language. A 1997 survey found that 66% of all Indians can speak Hindi, and 77% of Indians regard Hindi as "one language across the nation". [31]

2.5 For further information on geography, refer to Europa Yearbook, source [1a]

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3. ECONOMY

3.1 Since the early 1990s, India has been undergoing a transition from a government-controlled economy to one that is largely market oriented. The private sector is predominant in agriculture, most non-financial services, consumer goods, manufacturing and some heavy industry, although the State dominates the economy through public ownership in sectors such as finance, energy, capital goods and heavy industry, and infrastructure. The State also employs nearly 70% of the 28 million workers in organised employment. [6a]

3.2 India is the world's fifth largest economy in terms of gross national product (GNP), but its per capita GNP brings it to 90th place. Agriculture, together with fishing and industry, contribute approximately one third of GNP. About 70% of the population are involved in cultivation activities. Nearly 33% of cultivated land is under assured irrigation

while the rest depends on the annual monsoon. The main crops are food grains for domestic consumption such as rice, wheat and sorghum. Large-scale poverty means that out of the 1.13 billion people living below the poverty line throughout the world, 40% are found in India. [6e]

3.3 India is also regarded as a giant in technological achievements and industrial output: it has significant expertise in nuclear energy, communication satellites, vehicles, software design, combat aeroplanes and helicopters, oceanography and deep sea oil drilling, as well as machinery and manufactured goods. [6e]

3.4 According to XE.com, the approximate rate of exchange on 19 March 2004 was £1 = 79 Indian rupees. [3e]

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4. HISTORY

For history prior to 1996, refer to Europa Year Book Source [1a]

1996 - 1998

4.1 The Congress (I) Government entered the May 1996 general elections with its morale at a low ebb and many of its senior leaders at odds with the Prime Minister, Narasimha Rao. Breakaway parties had been formed in the north, in Madhya Pradesh and in Tamil Nadu - the last in response to Narasimha Rao's decision to have an electoral alliance with the Tamil regional party, the AIADMK, then ruling the State. Congress won only 139 seats, its poorest ever performance. The BJP emerged as the largest party, improving on its previous performance to win 160 seats but still well short of a majority, even with allies. [7e]

4.2 On 15 May 1996 the Indian President called on the BJP's parliamentary leader, Atal Behari Vajpayee, to form a Government, which he did with the support of Shiv Sena and other smaller allies. Given the antagonism felt towards the BJP by the majority of other political parties, Vajpayee resigned on 28 May 1996 in anticipation of his Government's inevitable defeat in a parliamentary vote of confidence. [1a]

4.3 The National and Left Fronts merged to form an informal coalition known as the United Front (UF) which comprised a total of 13 parties, with the Janata Dal, the Samajwadi Party, the 2 communist parties and the regional Dravida Munnetra Kazhagam (DMK) and Telugu Desam as its major components. With Congress (I) prepared to lend external support, the UF was able to form a Government at the end of May 1996. H.D. Deve Gowda, a former Chief Minister of Karnataka, was selected to lead the UF and the new Government. [1a]

4.4 At the end of March 1997 Deve Gowda was faced with a serious political crisis following Congress (I)'s withdrawal of parliamentary support for the UF Government. On 11 April 1997 the Prime Minister resigned following the defeat of the UF Government in a vote of confidence, and he was replaced by Inder Kumar Gujral, the External Affairs Minister and the only person acceptable to all the coalition parties. He was sworn in as Prime Minister on 22 April 1997. [1a]

4.5 In November 1997 Congress (I) called for the withdrawal of the Dravida Munnetra Kazhagam (DMK) party from the Government. The Government refused the request and Congress withdrew its support. Mr Gujral resigned as Prime Minister on 28 November 1997. On 4 December 1997 President Narayanan dissolved the Lok Sabha (the Lower House). Mr Gujral headed an interim Government until the general election was held. [1a]

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1998 - the present

4.6 The general election was held between 16 February and 7 March 1998. Atal Behari Vajpayee, parliamentary leader of the BJP, was sworn in as Prime Minister on 19 March 1998, thereby ending 2 weeks of feverish political activity following a general election which had left no party with a clear majority in the Lok Sabha. [5b]

4.7 India detonated 5 nuclear devices in May 1998, before Pakistan responded with 6 underground nuclear explosions. The tests enjoyed widespread support in India, but they provoked almost universal condemnation from the international community. [5c]

4.8 The BJP-led Government survived with the outside support of several regional parties and the participation in Government of several allies whose backing was conditional on narrow and specific agendas. [1e] A political crisis arose in April 1999 after the AIADMK party withdrew its support from the Government. [8j] India's President asked Prime Minister Vajpayee to seek a vote of confidence. [8k] On 17 April 1999 the Government lost a vote of confidence in the Lok Sabha by one vote [8l] and after 10 days the President dissolved Parliament and called a general election. [8m] The general elections to the 13th Lok Sabha, held between September and October 1999, concluded with a decisive victory for the 24-party National Democratic Alliance (NDA) coalition led by the BJP, which with 296 seats commanded an absolute majority. Overall voter turnout was 60%. Atal Behari Vajpayee, leader of the BJP was sworn in as Prime Minister on 13 October 1999. Although there was a 2.7% swing to Congress (I) nationwide, it went on to suffer its worst ever electoral defeat. In contrast to the 1998 election, the BJP eschewed the rhetoric of sectarian Hinduism, concentrating instead on economic reform and infrastructure projects. In the last phase of the election, violence claimed 41 lives, mostly as a result of attacks by separatist militants in the north eastern States of Assam and Tripura. [5e]

4.9 The results of the September/October 1999 general election [24a] (with the party positions in the Lok Sabha after the February/March 1998 elections in brackets) were:

Bharatiya Janata Party*	182 (181)
Congress (I)	111 (141)
Communist Party of India (Marxist)	32 (32)
Telugu Desam Party*	29 (12)
Samajwadi Party	25 (18)
Janata Dal United*	20 (6)
Shiv Sena*	15 (6)

Bahujan Samaj Party	14 (5)
Dravida Munnetra Kazhagam*	12 (5)
Biju Janata Dal*	10 (9)
All India Anna Dravida Munnetra Kazhagam	10 (18)
All India Trinamool Congress*	8
Nationalist Congress Party	7
Rashtriya Janata Dal	7 (17)
Independents	5 (6)
Pattali Makkal Katchi*	5 (4)
Indian National Lok Dal*	5
Communist Party of India	4 (9)
Jammu and Kashmir National Conference	4 (3)
Marumalarchi Dravida Munnetra Kazhagam*	4 (3)
Revolutionary Socialist Party	3 (5)
All India Forward Bloc	2 (2)
Muslim League Kerala State Committee	2
Shiromani Akali Dal*	2 (8)
Rashtriya Lok Dal	2
Akhil Bhartiya Tantrik Congress	2
Janata Dal Secular	1
Samajwadi Janata Party (Rashtriya)	1
Manipur State Congress Party	1 (1)
Himachal Vikas Congress	1
Kerala Congress	1
Kerala Congress (M)	1 (1)
Sikkim Democratic Front	1 (1)
Communist Party of India (Marxist-Leninist)(Liberation)	1
Bharipa Bahujan Mahasangha	1
Peasants and Workers Party of India	1 (1)
All India Mailis-E-Ittehadul Muslimmen	1 (1)
MGR Anna DM Kazhagam	1
Shiromani Akali Dal (Simranjit Singh Mann)	1

* indicates parties which supported the BJP led Government.

4.10 The BJP and its allies won 296 seats, Congress and its allies 134 seats, and the others accounted for 107 seats. [11c]

4.11 As at 8 November 1999 the party position in the Rajya Sabha (Upper House of the Indian Parliament) [24b] was as follows:

Congress (I)	58
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Bharatiya Janata Party	45
Communist Party of India (Marxist)	16
Independents	15
Telugu Desam	10
Janata Dal	9
Rashtriya Janata Dal	8
Nominated Members	8
Samajwadi Party	7
Dravida Munnetra Kazhagam	7
All India Anna Dravida Munnetra Kazhagam (I)	5
Shiv Sena	5
Shiromani Akali Dal	5
Bahujan Smaj Party	4
Biju Janata Dal	3
Tamil Maanila Congress (Moopanar)	3
Muslim League	2
Jammu and Kashmir National Conference	2
Asom Gana Parishad	2
Forward Bloc	2
All India Anna Dravida Munnetra Kazhagam (II)	1
Sikkim Sangram Parishad	1
Revolutionary Socialist Party	1
Kerala Congress	1
Maharashtra Vikas Aghadi	1
Haryana Vikas Party	1
Himachal Vikas Congress	1
Jharkhand Mukti Morcha	1
Indian National Lok Dal	1
Autonomous State Demand Committee	1

4.12 According to a BBC news report dated 14 May 2001, in May 2001, India's main opposition Congress (I) party emerged victorious after elections in five key States across the country. Congress (I) swept to power in Kerala, Assam and Pondicherry, while a key ally took the southern State of Tamil Nadu. India's communists also won a record sixth term in West Bengal, continuing their reign as the world's longest serving elected communist administration. The results were being seen as a major blow for Prime Minister Vajpayee whose BJP coalition partners did not win anywhere, although the BJP was not a key player in the five States. In Tamil Nadu, the AIADMK alliance, led by the former film star Jayalalitha, won a resounding victory over the BJP's key Government coalition partner, the DMK. [32ad]

4.13 Elections to four State assemblies were held on 13-21 February 2002, with the BJP suffering serious defeats. In the key northern State of Uttar Pradesh (India's most populous, with a population of 166 million), the BJP lost control, coming second with 107 seats to the socialist Samajwadi Party (SP) with 146 seats. [5j] President's rule was imposed on 8 March 2002 in Uttar Pradesh, and the recently elected 403-seat State assembly suspended, as no party had been able to assemble a coalition to ensure a ruling majority. [5k] The political stalemate was resolved on 3 May 2002 when Mayawati, leader of the Bahujan Samaj Party (BSP), was sworn in as chief minister heading a 19-member Cabinet that included 7 BJP ministers. [5m] The BJP lost the new northern State of Uttaranchal and the north western State of Punjab to Congress, which was returning to power in the latter after 5 years. The resurgent Congress Party was now in Government in 14 States. [5j] The newly formed Secular Progressive Front (SFP) took power in Manipur with 35 seats in the 60-member assembly. [5k]

4.14 According to a BBC news report dated 25 July 2002, in July 2002 the eminent scientist Dr A.P.J. Abdul Kalam was sworn in as India's 12th President, replacing K.R. Narayanan. He was the retired architect of India's missile programme. As a Muslim, correspondents felt that this was an important signal at a time when the country was still recovering from the [Hindu-Muslim] Gujarat riots. [32ai]

4.15 According to a BBC report dated 16 December 2002, in December 2002 the BJP won in State elections in Gujarat, increasing its majority in the 182-seat assembly by winning 126 seats. The scale of the victory surprised some observers as the BJP's popularity had been in decline. [32an]

4.16 According to the BBC in a report dated 4 March 2003, in State elections in February 2003, the Congress Party won a big victory over the BJP in Himachal Pradesh. In Meghalaya, Congress were to head a coalition with three regional parties and some independent legislators. A coalition of left-wing parties was triumphant in Tripura, while in Nagaland, the Democratic Alliance of Nagaland was invited to form a Government. [32ap]

4.17 India's Hindu-nationalist BJP celebrated sweeping election wins in three states held by the Congress party, as reported by BBC news on 5 December 2003. [32ck] Keesings news Digest for December 2003 reported that the BJP secured administrations in Rajasthan, Madhya Pradesh and Chattisgarh giving rise to speculation that Prime Minister Vajpayee would bring forward the date of the general elections due in October 2004. [5s]

4.18 As reported by the BBC news on 1 March 2004, early elections were called by Prime Minister Atal Bahari Vajpayee and voting held over 4 days starting on 20 April and ending on 10 May, with counting taking place on 13 May. Ballots were cast on electronic voting machines for the first time with 675 million eligible to vote. [32ay]

For history prior to 1996 refer to Europa Yearbook, source [1a]

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5. STATE STRUCTURES

The Constitution

5.1 As cited on the Government of India website, the Indian Constitution was passed on 26 November 1949. The Preamble to the Constitution resolved to constitute India into a sovereign socialist secular democratic republic and to secure for all its citizens justice - social, economic and political; liberty of thought, expression, belief, faith and worship; and equality of status and opportunity. [24c] As stated in the Europa World year book 2003, the Constitution is flexible in character, and a simple process of amendment has been adopted. [1b]

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Citizenship and Nationality

5.2 As noted by the Defence Security Service website, Indian citizenship is based upon the Citizenship Act of 1955. Despite the variety of States, peoples and languages in India, the law recognises only Indian citizenship. Though the law of India does recognise citizenship through birth in country, unless the citizenship is actively applied for, the Indian Government does not consider the child a citizen of India. [38]

5.3 According to the Defence Security Service website Children born abroad must be registered at the Indian Consulate. The child of an Indian mother and a foreign father is considered an Indian citizen if the mother and child continue to live in India and the father does not give the child his country's citizenship. [38]

5.4 As noted by the Defence Security Service website, Indian citizenship may be acquired by naturalisation if the person has resided in India for five years and they have renounced any previous citizenship. [38]

5.5 According to the Defence Security Service website Voluntary renunciation of Indian citizenship is permitted by law. The following are grounds for involuntary loss of Indian citizenship: the person voluntarily acquires a foreign citizenship; naturalised citizenship was acquired through false statements; a naturalised citizen commits acts against the State of India before the end of the five-year grace period. [38]

5.6 According to a Guardian news article dated 9 January 2003, in January 2003, it was announced that India would soon grant dual citizenship to some foreigners of Indian origin. The offer would allow Indians from other countries to buy property in India, but they would not be allowed to vote or run for office. [40]

Political System

5.7 According to the US Department of State report 2003 (published in 2004), "India has a democratic, parliamentary system of Government with representatives elected in multi-party elections. The Constitution provides citizens with the right to change their Government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. A Parliament sits for 5 years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. [2c](p 23) Europa World Year book 1998 notes that, India is a federal republic, with legislative power vested in Parliament, which consists of the President and two Houses. The upper house, the Rajya Sabha (Council of States) has 245 members, most of whom are indirectly elected by the State Assemblies for 6 years (one third retiring every 2 years), the remainder being nominated by the President for 6 years. The Lower House, the Lok Sabha (House of the People) has 543 elected members, serving for 5 years. Two members of the Lok Sabha may be nominated by the President to represent the Anglo-Indian community, while the 543 members are directly elected by universal adult suffrage in single member constituencies." [1a]

5.8 Europa World Year book 1998 notes that the President is a constitutional Head of State, elected for 5 years by an electoral college comprising elected members of both Houses of Parliament and the State legislatures. The President exercises executive power on the advice of the Council of Ministers, which is responsible to Parliament. The President appoints the Prime Minister and, on the latter's recommendation, other Ministers. [1a]

5.9 As stated in a CNN news article dated 7 November 2000, India has 28 States (29 if the capital region of Delhi is included). [33g] with constitutionally defined powers of Government. The States vary greatly in size, population and development. Each State has a Governor appointed by the President for 5 years, a legislature elected for 5 years, and a Council of Ministers headed by a chief minister. Each State has its own legislative, executive and judicial machinery, corresponding to that of the Indian Union, as reported in Europa World Year book . [1a] As stated in the US Department of State report 2003 (published 2004), State Governments are elected at regular intervals except in States under President's Rule. On the advice of the Prime Minister, the President may proclaim a State of Emergency in any part of the national territory in the event of war, external aggression, or armed rebellion. Similarly, President's Rule may be declared in the event of a collapse of a State's constitutional machinery. [2c](p23) According to Europa World Year Book, there are also 6 Union Territories and the National Capital Territory of Delhi, administered by Lieutenant Governors or Administrators, all of whom are appointed by the President. The Territories of Delhi and Pondicherry also have elected chief ministers and State assemblies. [1a]

5.10 As stated in the Europa World Year book 1998, the 28 States are: Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, [1a] Chhattisgarh, [33g] Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, [1a] Jharkhand, [33g] Karnataka, Kerala, Madhya Pradesh, Manipur, Maharashtra, Meghalaya, Mizoram, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, [1a]

Uttaranchal, [33g] and West Bengal. [1a]

5.11 The Territories are: Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu, Delhi, Lakshadweep, and Pondicherry. [1a]

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Judiciary

5.12 According to the US Department of State report 2003, “The Constitution provides for an independent judiciary. The Judicial system is headed by a Supreme Court and includes the Court of Appeals and lower courts. The highest court is the Supreme Court, which has jurisdiction over constitutional issues. Lower courts hear criminal and civil cases and send appeals to the Court of Appeals. The President appoints judges, and they may serve until the age of 62 on state high courts and until the age of 65 on the Supreme Court. Under a Supreme Court ruling, the Chief Justice, in consultation with his colleagues, has a decisive voice in selecting judicial candidates. The President appoints judges, and they may serve up to the age of 62 on the State High Courts and up to the age of 65 on the Supreme Court. Courts of first resort exist at the sub-district and district levels. More serious cases and appeals are heard in State-level High Courts and by the national-level Supreme Court, which also rules on constitutional questions. State Governments appoint sub-district and district judicial magistrates. High Court judges are appointed on the recommendation of the federal Law Ministry, with the advice of the Supreme Court, the High Court Chief Justice, and the chief minister of the State, usually from among district judges or lawyers practising before the same courts. Supreme Court judges are appointed similarly from among High Court judges. The Chief Justice is selected on the basis of seniority.” [2c](p13)

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Legal Rights/Detention

5.13 According to the US Department of State report 2003 (published 2004), “The Indian Constitution provides that detainees have the right to be informed of the grounds for their arrest, to be represented by counsel, and, unless held under a preventive detention law, to be arraigned within 24 hours of arrest, at which time the accused must either be remanded for further investigation or released.”... “The Constitution provides that arrested persons have the right to be released on bail. The police must file charges within 60 to 90 days of arrest; if they fail to do so, court approval of a bail application becomes mandatory.” [2c](p11)

5.14 According to the US Department of State report 2003 (published 2004) ...”In general, the judiciary enforced the right to fair trial; however, there was a large backlog of cases, and as a result, some courts barely functioned”...”To remedy the severe overcrowding in the judicial system, the Government asked the government-appointed Malimath Committee to identify possible improvement.”...[2c](p13) As reported in the US Department of State report 2003, “In 2000, the Government announced that it would fund the creation of 1,734 additional courts during 2000-2005. At year’s end, 1,205 of these courts had been set up.” [2c](p13)

5.15 According to a United Nations report dated 17 June 1996, Free legal services are available for those on low income. Legal aid is available for fees incurred in legal proceedings, representations by a legal practitioner, obtaining certified copies of legal documents, and preparation of appeal papers. [6a](p17-18)

5.16 According to the US Department of State report 2003 (published 2004)...”The Criminal Procedure Code provides that trials be conducted publicly in most cases, but it allows exceptions in proceedings involving official secrets, trials in which statements prejudicial to the safety of the State might be made, or under provisions of special security legislation. Sentences must be announced publicly. Defendants have the right to chose counsel independent of the Government. There were effective channels for appeal at most levels of the judicial system and the State provides free legal counsel to indigent defendants.” [2c](p13)

5.17 According to the US Department of State report 2003 (published 2004) “Muslim personal status law governs many non-criminal matters involving Muslims, including family law, inheritance, and divorce. The Government does not interfere in the personal status laws of the minority communities, including those that discriminate against women.” [2c](p13)

5.18 As reported in the US Department of State report 2003 [published 2004], “In Jammu and Kashmir, the judicial system barely functioned due to threats by militants against judges, witnesses, and their family members; because of judicial tolerance of the Government's heavy-handed anti-militant actions; and because of the frequent refusal by security forces to obey court orders. Jammu and Kashmir were reluctant to hear cases involving terrorist crimes, and failed to act expeditiously on habeas corpus cases, if they acted at all. There were a few convictions of alleged terrorists in the Jammu High Court during the year (2003); many more accused militants had been in pre-trial detention for years.” [2c](p13)

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Death Penalty

5.19 On Amnesty International's “Website Against the Death Penalty” they list India among those countries that retain the death penalty for ordinary crimes. [3k](p2)

5.20 As reported by Keesings in January 2004, The Supreme Court suspended the death sentences on 19 January, imposed on 2 men convicted of planning the December 2001 attack on the Indian parliament. [5t]

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Internal Security

5.21 As noted in the US Department of State report 2003 (published 2004), “The armed forces are under civilian control.” [2c](p1) According to War Resisters International, 1998 figures, India's armed forces are 1,145,000-strong. The paramilitary forces have 1,088,000 members. [2t] As noted by UNHCR in a Background paper dated October 1998, each State controls its own police forces through its own home ministry. The Home Ministry of the Union Government co-ordinates the activities of the all-India bodies. These include the Central Bureau of Investigation (CBI) (the main law

enforcement body in India), the Central Detective Training School, the Central Forensic Laboratory, the Central Fingerprint Laboratory, and the National Police Academy in Mount Abu, Rajasthan, where the Indian police service is trained. It also has jurisdiction over the Central Reserve Police Force (CRPF), the Railway Protection Force and the Border Security Force. [6e](p5)

5.22 As reported in the US Department of State report 2003 (published 2004), "The Armed forces Special Powers Act and the Disturbed Areas Act remained in effect in several states in which active secessionist movements exist, namely, in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura. The disturbed Areas Act gives police extraordinary powers of arrest and detention, which, according to human rights groups, allowed security forces to operate with virtual impunity in areas under the act. The Armed Forces Special Powers Act provides search and arrest powers without warrants." [2c](p3)

5.23 According to the US Department of State report 2003, the National Security Act (NSA) permits the preventive detention of persons considered to be security risks. Police anywhere in the country (except for Jammu and Kashmir) may detain a suspect without charge or trial for as long as one year on loosely defined security reasons. The State Government must confirm the detention order, which is reviewed by an advisory board of 3 High Court judges, within 7 weeks of arrest. NSA detainees are permitted visits by family members and lawyers, and must be informed of the grounds for their detention within 5 days (10 to 15 days in exceptional circumstances). [2c](p12)

5.24 According to the United Nations Background 1998, The Armed Forces (Special Powers) Act 1958 was enacted at a time when India was faced with the activities of insurgents in the border areas on the eastern frontier of the country. According to the US Department of State report for 2003, The Armed Forces Special Powers Act (AFSPA) of 1958 remained in effect in Nagaland, Manipur, Assam and parts of Tripura, and a version of this law was in effect in Jammu and Kashmir. Under this Act, the Government has the power to declare any State or Union Territory a "disturbed area;" allows security forces to fire on any person if it is considered "necessary for maintenance of law and order;" the authorities can arrest any person "against whom reasonable suspicion exists" with no obligation to inform the detainee of the grounds for arrest; and the authorities are given immunity from prosecution for any acts committed by them in relation to the Act. [2c](p12)

5.25 According to the US Department of State report 2003, the Terrorist and Disruptive Activities Act (TADA) lapsed in 1995. [2c](p11) According to a UNHCR background paper 1998, the Act prohibited not only "terrorist acts" but also "disruptive activities" which questioned or threatened the sovereignty and territorial integrity of India. [6e](p14)

5.26 According to the US Department of State report for 2003, in March 2002 the Prevention of Terrorism Ordinance (POTO) was enacted into law and changed to the Prevention of Terrorism Act (POTA). The POTA allows detention without charge for 3 months, and a further 3 months if allowed by a special judge, deems not disclosing information to the authorities about terrorist activities an offence, and provides extensive new powers to ban organisations and seize their assets. The act is similar to the TADA in its provisions for detentions, summary trials, and the use of

testimony obtained under duress. In addition, the bill provides for special courts to try offences, place the burden of proof at the bail stage on the accused, allows confessions made to a police officer admissible as evidence, extends the period of remand from 15 to 60 days, and sets mandatory sentences for terrorism-related offences. [2c](p11)

5.27 According to the US Department of State report 2003, "In March [2003] the Government issued a directive to form a POTA review committee to examine the use of law in various states and prepare a report of findings and recommendations. In October [2003], the government gave statutory powers to the POTA Review Committee for redress of complaints by individuals. The POTA review Committee reviewed cases, and its findings were binding on the government and interrogating police officers. The Committee had not issued a final report by year's end." [2c](p12)

5.28 According to the Indian Ministry of Home Affairs website [undated], a total of 32 terrorist organisations were listed in the Schedule to the POTO. These were: Babbar Khalsa International, Khalistan Commando Force; Khalistan Zindabad Force; International Sikh Youth Federation; Lashkar-e-Taiba/Pasban-e-Ahle Hadis; Jaish-e-Mohamed/Tahrik-e-Furqan; Harkat-ul-Mujahideen/Harkat-ul-Ansar/Karkat-ul-Jihad-e-Islami; Hizb-ul-Mujahideen/Hizb-Ulmujaahideen Pir Panjal Regime; Al-Umar-Mujahideen; Jammu and Kashmir Islamic Front; United Liberation Front of Assam (ULFA); National Democratic Front of Bodoland (NDFB); People's Liberation Army (PLA); United National Liberation Front (UNLF); People's Revolutionary Party of Kangleipak (PREPAK); Kangleipak Communist Party (KCP); Kanglei Yaol Kanba Lup (KYKL); Manipur People's Liberation Front (MPLF); All Tripura Tiger Force; National Liberation Front of Tripura; Liberation Tigers of Tamil Eelam (LTTE); Students Islamic Movement of India; Deendar Anjuman; Communist Party of India (Marxist-Leninist), People's War and all its formations and front organisations; Maoist Communist Centre, all its formations and front organisations; Al Badr; Jamiat-ul-Mujahidden; Al-Qaida; Dukhtaran-e-Millat (DEM); Tamil Nadu Liberation Army (TNLA); Tamil National Retrieval Troops (TRNT); and Akhil Bharat Nepali Ekta Samaj (ABNES). [39](p28-29)

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Prisons and Prison Conditions

5.29 According to the US Department of State report for 2003, "Severe overcrowding in prisons was common...Prisons operated above capacity because more than 60 percent of the prison population were persons awaiting hearings. For example the Government reported that New Delhi's Tihar jail held four times as many prisoners as its capacity at year's end. The Government announced plans to address the overcrowding in prisons by building four additional prisons; however, no further action had been taken by year's end." A large proportion of deaths in custody were attributed to natural causes but in some cases were aggravated by poor prison conditions. A study in 2002 by the NHRC found that tuberculosis was the main cause of death in judicial custody. [2c] (p10)

5.30 According to the US Department of State report 2003, "Women were housed separately from men. By law juveniles must be detained in rehabilitative facilities, however, at times they were detained in prison, especially in rural areas. Pre-trial

detainees are not separated from convicted prisoners.” [2c] (p10)

5.31 As reported in the US Department of State report for 2003, “NGO’s were allowed to work in prisons, within specific governmental guidelines. In Kerala and Karnataka, the state governments selectively cleared NGO’s to visit prisons. Although custodial abuse is deeply rooted in police practices, increased press reporting and parliamentary questioning provided evidence of growing public awareness of the problem. The NHRC identified torture and deaths in detention as one of its priority concerns. In February, the Government disclosed plans to supplement state funds to effect prison reforms. Noting that Orissa demonstrated a particular need for assistance, the Home Ministry reported that it had provided \$5,000 (233.078Rs) for the modernization of the prison administration between 1993 and 2002.”[2c](p10)

5.32 According to the US Department of State report 2003, “Human rights NGOs, family members, and lawyers were allowed access to some detention facilities; however, International Committee of the Red Cross (ICRC) visited detention facilities in Jammu and Kashmir . Fifteen states and union territories have authorized the NHRC to conduct surprise check-ups on jails. The NHRC's "Special Rapporteur and Chief Coordinator of Custodial Justice" helped implement its directive to state prison authorities to perform medical check-ups on all inmates.” [2c](p10)

5.33 According to a BBC news report dated 16 December 1999, in 1999 the Supreme Court of India ordered an investigation into the case of a prisoner who had been awaiting trial for 37 years in West Bengal. Ajay Ghosh had been in custody since 1962, when he was arrested and charged with murdering his brother. Throughout this period, Mr Ghosh was denied a trial on the grounds that he was mentally unsound. [32e] A further BBC news article dated 20 January 2000 reported, the Supreme Court later ordered his transfer to an old-age home. [32f]

5.34 As reported in the Daily Dawn newspaper dated 22 August 2003, in August 2003 the Supreme Court ordered the federal authorities to free incarcerated Pakistani nationals who had already served their full term in prison, some had complained that they had completed their terms as far back as 1992. The court directed the release and deportation of Pakistani prisoners who had served their sentence and were not detained under any orders passed under the Foreigners Act. [41]

5.35 It was reported in Keesings record of World Events for June 2003, on 23 June 2003 that Jammu and Kashmir Minister of State for parliamentary affairs Abdul Tehman Veeri had told the State Assembly that there had been 144 alleged custodial killings by local police and Indian security forces since the beginning of the separatist insurgency in the northern state in 1989. This was the first time that the state authorities had acknowledged the problem of deaths in custody.[5q]

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Military Service

5.36 According to a UNHCR background paper 1998, “Military service is voluntary, although the Constitution states that every citizen has a fundamental duty to perform national service if called upon to do so. The armed forces have traditionally not been involved in domestic politics, and have never instigated a coup.” [6e](p10) According to War Resisters International 1998, legal enlistment age is between the ages of 18 and 25. There is no known legal provision for conscientious objection. [21]

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Medical Services

5.37 In a letter dated 7 June 2001, the British High Commission in New Delhi outlined the standards of medical facilities in India. In the larger cities, particularly the State capitals, there are hospitals offering care in a wide range of medical specialities. These include: general medicine and surgery, obstetrics and gynaecology, paediatrics, neurology, gastro-enterology, cardiology, cardiothoracic surgery, neurosurgery, dental surgery, dermatology, ENT surgery, endocrinology, renal and liver transplant, orthopaedic surgery, nephrology, nuclear medicine, oncology, ophthalmology, plastic surgery, psychiatry, respiratory medicine, rheumatology and urology. Outside these cities medical care can be more variable, but most districts are served by referral hospitals. [7g]

5.38 According to the US Department of State report 2003, “Medical care is free to all citizens; however, availability and quality were problems, particularly in rural areas.” [2c](p28) But most care is provided within the private sector. Private health care costs are less than in the UK, but vary according to the type of ward and tests needed. The private hospitals are expected to offer free treatment to a proportion of poor patients, according to FCO correspondence dated June 2001. [7g]

5.39 According to FCO correspondence dated June 2001, there is good availability of medications and many are cheaper than in the UK. Some are imported from abroad but there are many firms now producing drugs under licence in India. The standard of nursing and social care is not as high as in the UK, but with support from family these can be overcome. There are very few medical problems for which suitable care cannot be found in India. [7g]

5.40 As reported by Reuters on 6 June 2001, under an agreement signed on 5 June 2001, the United States Agency for International Development (USAID) pledged to provide US\$41.5 million to fight AIDS in the State of Maharashtra. The project aimed to focus on targeted interventions for high risk groups as well as broader-based prevention messages for the general population and capacity building among HIV and AIDS prevention groups in Maharashtra. It was the largest programme ever undertaken by USAID. [8q] According to a Reuters news report dated 6 August 2001, in August 2001, Indian drug maker Cipla Ltd said it had launched a three-in-one tablet to treat AIDS, the first combination medicine in the world of the three drugs stavudine, lamivudine and nevirapine. Cipla said in a statement that a month's supply of the new pill, Triomune, would cost patients 1,800 rupees, commenting that the price

represented a five to six-fold reduction in the monthly cost of therapy. Cipla is allowed by Indian patent law to make drugs that are patented by other companies internationally, as the law protects only the processes by which drugs are made, and not the drugs themselves. [8r] Reuters reported on 30 November 2002 that a report in November 2002 listed Tamil Nadu as the State with the highest number of AIDS cases, with 18,276 cases reported until August 2002. [8s]

5.41 According to a BBC news report dated 30 November 2003, “The Indian Government is to provide low-priced drugs for treating HIV/Aids, it was announced in Delhi.” More than \$40 million would be allocated from April 2004 to provide drugs in government run hospitals. More than 4.5 million people have been diagnosed as HIV positive in India. The drugs will come from three big pharmaceutical companies in India. It was also announced that measures were planned to protect HIV sufferers in other ways, such as legislation to prevent discrimination against those with the disease. New laws were proposed to make it a criminal offence for situations such as doctors who refuse to treat patients and for children being banned from schools. According to the Health Minister, the budget would also help to fund free medication for children and the poorest patients, as well as people with HIV/Aids. [32c]

5.42 As reported in the US Department of State report 2003, “According to NGOs, there were more than 60 million persons with disabilities in the country...Neither law nor regulations require accessibility for persons with disabilities. With the adoption of the Persons with Disability Act, a nascent disabled rights movement slowly was raising public awareness of the rights of the disabled.” [2c](p29)

5.43 According to the US Department of State report 2003, “The Government provided special railway fares, education allowances, scholarships, customs exemptions, budgetary funds from the Ministry of Rural Development, and rehabilitation training to assist the disabled; however, implementation of these entitlements was not comprehensive.” ... [2c](p29)

5.44 According to the US Department of State report 2003, “The Disabled Division of the Ministry of Welfare had a budget of more than \$46.3 million (2.13 billion Rs) for the 2003-2004 fiscal year for a number of organizations and committees at the national, regional, and local levels. The Ministry delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the Government to put a rehabilitation center in each of more than 400 districts, but services still were concentrated in urban areas. Moreover, the impact of government programs was limited. Significant funding was provided to a few government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India. In June, the National Center for the Promotion of Employment for Disabled People launched an exclusive news service on disability in the country. The Persons with Disability Act established a Disabilities Commissioner who over saw implementation of the Act and its provisions protecting persons with disabilities.” [2c](p29)

5.45 According to a BBC report dated 29 September 2003, it was reported in October 2003 that increasing numbers of international patients are travelling to India to seek quality health care at a fraction of the cost back home. Typically they are admitted at

one of the many upscale private hospitals that have sprung up across the country. With state-of-the-art equipment and medical practitioners trained abroad, they are described as “five star” hospitals. Experts believe India is poised to become a major health care destination offering quality medical service at low cost. The marketing Vice-President of India’s Apollo Hospitals stated that their medical facilities are on par with any centre in the world and their surgeons and cardiologists are trained in the UK and US and can deliver results equal to those achieved by their global counterparts. In India, leading hospitals can perform open-heart surgery for less than \$5,000 and the costs can be covered by most major insurance policies. The other attraction is that there is no waiting period for major medical procedures. The Healthcare Mission highlighted India’s medical facilities and skills especially in the areas of Cardiology, Oncology, Minimal Invasive Surgery and Joint Replacement. [32ca]

5.46 As reported by the BBC on 10 February 2004, a Medical Tourism Council (MTC) was launched in Maharashtra by the state’s business sector and private health-care providers, aiming to make India a prime destination for medical tourists. They argue that Bombay has private hospitals on a par with the best in the world. Many of the surgeons are leaders in their field. The average price of private heart surgery in the West is \$50,000, in Bombay it costs \$10,000. The MTC plans to also work with state-run systems, such as the NHS.[32cv]

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Educational System

5.47 According to the US Department of State report 2003, “The Government does not provide compulsory, free, and universal primary education, and only approximately 59% of children between the ages of 5 and 14 attend school. However, in 2002, the lower house of Parliament passed a constitutional amendment giving all children ages 6 to 14 the right to free and compulsory education provided by the State. The amended law also placed an obligation on parents and guardians to provide educational opportunities to these children. Of a primary school-age population of approximately 203 million, approximately 120 million children attended school. However, according to UNICEF, 76.2% of all children aged 11 to 13 years attended school. No significant sectors or groups actively were excluded from education, but children of wealthier families were more likely to attend school. A significant gender gap existed in school attendance, particularly at secondary school level.” [2c](p28) According to Europa World Year Book 2003, the 93rd amendment to the Constitution, approved in May 2002, enshrined the right to free and compulsory education from the age of 6 to 14.[1b]

5.48 According to Europa World Year Book 2003, education is primarily the responsibility of the individual state governments. Elementary education for children between the ages of 6 and 14 years is theoretically compulsory in all states except Nagaland and Himachal Pradesh. There are facilities for free primary education (lower and upper stages) in all the states.[1b]

5.49 According to the US Department of State report 2002, academic freedom is not restricted, and students and faculty espouse a wide range of views. In addition to some 16 national universities and 259 State universities, States are empowered to accredit locally run private institutions. [2d]

6. HUMAN RIGHTS

6.A HUMAN RIGHTS ISSUES

Overview

6.1 According to the US State Department Report 2003, "India is a longstanding parliamentary democracy with a bicameral parliament...The judiciary is independent; however, the judiciary was underfunded, overburdened, and NGOs alleged that corruption influenced court decisions. The Government generally respected the human rights of its citizens; however, numerous serious problems remained. Significant human rights abuses included: Extrajudicial killings, including faked encounter killings, custodial deaths throughout the country, and excessive use of force by security forces combating active insurgencies in Jammu and Kashmir and several northeastern states; torture and rape by police and other agents of the Government; poor prison conditions; arbitrary arrest and incommunicado detention in Jammu and Kashmir and the northeast; continued detention throughout the country of thousands arrested under special security legislation; lengthy pretrial detention without charge; prolonged detention while undergoing trial; occasional limits on freedom of the press and freedom of movement; harassment and arrest of human rights monitors; extensive societal violence against women; legal and societal discrimination against women; forced prostitution; child prostitution and female infanticide; discrimination against persons with disabilities; serious discrimination and violence against indigenous people and scheduled castes and tribes; widespread intercaste and communal violence; religiously motivated violence against Muslims and Christians; widespread exploitation of indentured, bonded, and child labor; and trafficking in women and children." [2c](p1)

6.2 The report continues, "These abuses were generated by a traditionally hierarchical social structure, deeply rooted tensions among the country's many ethnic and religious communities, violent secessionist movements and the authorities' attempts to repress them, and deficient police methods and training. These problems were most visible in Jammu and Kashmir, where judicial tolerance of the Government's heavy-handed counterinsurgency tactics, the refusal of security forces to obey court orders, and the terrorist threats have disrupted the judicial system." [2c](p1-2) According to the UN International Covenant on Civil and Political Rights 1997 other reasons include poverty, disparities in the distribution of wealth, persistence of traditional practices and customs particularly affecting women, and discrimination against underprivileged classes and castes. [6c](p2)

6.3 In a report dated 26 April 2000, Amnesty International highlighted their concerns about a range of abuses against the actual human rights defenders themselves. Amnesty acknowledged that steps have been taken by the Indian Government over a number of years to support the work of human rights defence, for example through the establishment of statutory human rights institutions and the ratification of international

human rights treaties, and acknowledged the support that Government agencies have given to sectors of social activism through government-funded programmes and government-NGO co-operation. However, Amnesty were concerned that much of the State's actions in defence of human rights was at a rhetorical level and sporadic in their implementation, and believed that there was an urgent need for the State to take active steps to ensure the protection of activities in defence of human rights. [31](p3) According to an Amnesty International report 2001: India: "Killings of human rights defenders must be investigated", in the wake of two killings of human rights defenders in the space of four months that were linked to police, Amnesty, in a news release dated 19 February 2001, called on the State Government of Andhra Pradesh to take immediate action. They asked that the attacks be impartially investigated and human rights defenders protected. [31](p1) A BBC news report dated 22 November 2000 stated for their part, the Government of Andhra Pradesh had announced in November 2000 that it intended to set up an independent body to deal with complaints against the police, headed by a High Court judge. [32]

6.4 The United Nations Human Rights Committee noted in a 1997 report, the existence of a broad range of democratic institutions and a comprehensive constitutional framework for the protection of human rights. It referred to the work of the National Human Rights Commission, and the establishment of human rights commissions in a number of States, and the establishment of the National Commission for Scheduled Castes and Scheduled Tribes and the National Commission for Women in 1992 and the National Commission for Minorities in 1993. [6c]

6.5 The US State Department Report 2003 states that, "The main domestic human rights organization operating in the country is the Government-appointed National Human Rights Commission (NHRC). The NHRC has powers to investigate and recommend policy changes, punishment, and compensation in cases of police abuse. In addition, the NHRC was directed to contribute to the establishment, growth, and functioning of human rights NGOs. The Commission acted independently of the Government, often voicing strong criticism of government institutions and actions. However, the NHRC faced numerous institutional and legal weaknesses, which human rights groups said hampered its effectiveness. From 2002 until year's end, the NHRC recorded 68,776 complaints, more than 50 percent of which were from the state of Uttar Pradesh. Approximately 54,013 of these 68,776 were dismissed or disposed." [2c](page24)

6.6 According to the US State Department Report 2003, "The NHRC has also influenced the legislative process, particularly by issuing recommendations on women's issues, persons with disabilities, and children's rights. The NHRC encouraged the establishment of human rights cells in police headquarters in some States; however, this policy was not implemented in any meaningful way. [2c](p24)

6.7 Amnesty International note in a 1998 submission that the NHRC is also empowered to study treaties and other international instruments on human rights and recommend measures for their effective implementation. The NHRC has suggested that the Protection of Human Rights Act should be amended to incorporate International Covenants. [3c](p79)

6.8 Amnesty International in a 1998 submission comment that Section 19 of the Protection of Human Rights Act limits the mandate of the NHRC and specifies that it is not empowered to investigate allegations of human rights violations by the armed forces. Whenever human rights violations by members of the armed or paramilitary forces are reported to the NHRC, its mandate restricts its action to seeking a report from central Government. After receiving the report, the NHRC can either not proceed with the case if it is satisfied with the report, or make recommendations. The Government is required to inform the Commission of the action taken on its recommendations within 3 months. The effect of this restriction is that the NHRC is reliant on the Government's version of events or the version of events as given by the alleged perpetrator. [3d](p13-14)

6.9 In several high profile cases, the NHRC has disregarded this limitation in its mandate and intervened in incidents of human rights violations by security forces, for example in Jammu and Kashmir in the case of the killing of lawyer Jalil Andrabi in March 1996 and the killing of civilians by security forces in Bijbehara in October 1993. [3c]

6.10 As noted in Amnesty International's India Submission to the Advisory Committee 1998, Section 36(2) of the Protection of Human Rights Act limits the NHRC to investigating allegations of abuses only up to a year after the alleged abuse took place. This has been overlooked in certain cases, but other cases over a year old have been disregarded. Amnesty International considers this problematic, as many victims approach the NHRC as a last resort, after using other mechanisms such as the courts. Lack of resources is often an obstacle to filing a complaint within the time-frame required. A human rights violation may not come to light until over a year after the original incident or a rape victim may have compelling reasons not to come forward immediately. [3d](p15-16)

6.11 However, according to a news article in The Tribune in September 1998 the Supreme Court ruled that the NHRC's probe into the alleged mass cremation of 2,000 bodies by the Punjab police in 1994-5 could not be barred by the one-year time limit. The Supreme Court ruled that the jurisdiction exercised by the NHRC in these matters is of a special nature not covered by the enactment of law and thus acts sui generis (a case of its own kind). [12c]

6.12 One of the NHRC's first actions was to request that it be informed of death or rape in police custody within 24 hours of occurrence, and while it had not succeeded in implementing this directive in States such as Jammu and Kashmir, the NHRC has become an important monitor of the extent of custodial violence. [3c] As reported in the Indian news agency on 8 July 1998, The NHRC has recommended that army and paramilitary forces should also follow the same procedure and report any death or rape in custody to the NHRC within 24 hours. The Indian Government rejected this, saying that the existing procedures laid down in the Protection of Human Rights Act 1993 were sufficient. [10c]

6.13 Amnesty International note in a 1998 submission, while the NHRC is conducting enquiries, it has the powers of a civil court, including summoning attendance of witnesses, compelling the provision of information and referring cases of contempt to a

magistrate. There have been occasions when the NHRC's work has been hampered by delays in receiving reports from State authorities. [3d](p8)

6.14 Amnesty International in a 1998 Submission note, "The NHRC has been active in recommending the granting of compensation in many cases in which it has found prima facie evidence of human rights violations... and it has actively pursued the granting of compensation with the authorities to ensure that victims or their relatives are provided with prompt financial redress". [3d](p10)

6.15 Amnesty International's submission to the Advisory Committee 1998 states that the NHRC has recommended changes to existing legislation to ensure that human rights are protected, as part of its mandate to review safeguards provided under the Indian Constitution or legislation. The NHRC played a significant role in calls for the abolition of the Terrorist and Disruptive Activities (Prevention) Act (TADA), which was allowed to lapse in 1995. The NHRC, in a submission to the Supreme Court, has expressed the view that the Armed Forces (Special Powers) Act is unconstitutional. The NHRC played a key role in encouraging the Indian Government to ratify the Convention against Torture. Nevertheless, Amnesty International believes that the NHRC should adopt a more systematic and consistent approach in reviewing existing or proposed legislation. [3d](p20-21)

6.16 According to the US Department of State report 2003, in addition to these state human rights commissions, special courts to hear human rights cases were established in Tamil Nadu, Uttar Pradesh, and Andhra Pradesh. However, the courts in Uttar Pradesh did not function, despite a 1999 court order that they be reactivated." [2c](p25)

6.17 The US State Department Report 2003 states that "The Human Rights Act recommends that each state to establish a state human rights commission, but not all states have done so. Commissions exist in 14 of the 25 states..." [2c](p24) According to the National Human Rights commission website accessed May 2004, State Human Rights Commissions exist in: Assam, Himachal Pradesh, Jammu & Kashmir, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal and Chhattisgarh.[47b] According to the US Department of State report 2003, Gujarat has not officially established a state commission, but in 2002 appointed a two-member judicial commission to investigate the violence in Gujarat. The commission had not reported its conclusions by year's end. The state human rights commission established in Jammu and Kashmir by an act of the state legislature had no power to independently investigate alleged human rights violations committed by security force members." [2c](p22-22)

6.18 The US State Department Report 2003 noted that "Although the Supreme Court in July 2002 ordered regular checks on police stations to ascertain the incidence of custodial violence against persons, the government and local authorities failed to comply in the overwhelming majority of police stations throughout the country; however, the checks were conducted in a small number of police stations in the States of Madhya Pradesh and West Bengal." [2c](p4)

Freedom of Speech and the Media

6.19 According to the US State Department Report 2003, “The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, there were some limitations. A vigorous and growing press reflected a wide variety of political, social, and economic beliefs. Newspapers and magazines regularly published, and television channels broadcast, investigative reports and allegations of government wrongdoing, and the press generally promoted human rights and criticised perceived Government lapses.” [2c](p15) According to India Today dated 19 August 2002, there are over 100 satellite [television] channels, over 5,000 daily publications, 16,000 weekly publications, and more than 6,000 fortnightly publications in various Indian languages. [11d]

6.20 As stated in Reporters without Borders Annual Report 2003, “The diversity of news is undeniable. India has more newspapers than any other country and the number of readers has increased by 17 million since 1999.” [42](p1)

6.21 The US State Department Report 2003 noted that, “Private satellite television was distributed widely by cable or satellite dish. These channels provided substantial competition for Doordarshan, the government-owned television network, in both presentation and credibility. Doordarshan frequently was accused of manipulating the news in the Government’s favour; however, in some parts of the country satellite channel owners used their medium to promote the platforms of the political parties that they supported. In addition, citizens had access to uncensored Cable News Network, the British Broadcasting Company and a variety of other foreign programs.” [2c](p17) According to the same report, “AM radio broadcasting remained a Government monopoly. Private FM radio station ownership was legalised during 2000, but licences only authorized entertainment and educational content. Although there were privately owned radio stations, they were not permitted to broadcast news”. [2c](p17)

6.22 According to BBC news Country Profile, 2 May 2002, only state-run All India Radio (AIR) is permitted to broadcast news on the radio. In late 2002 the Government agreed to educational institutions setting up their own low-power FM stations. [32av]

6.23 According to Reporters Without Borders annual report 2003, the government opened up the print media to foreign investment in 2002 by allowing up to 26 per cent to be internationally owned, ending a situation under which all newspapers and magazines had to be owned by Indians. A law on access to information was adopted for the first time on 4 December 2002. It aimed to end the secrecy cloaking government activity but significantly exempted information about defence, national security and many aspects of foreign policy. Nonetheless, the files of other ministries which had until then been inaccessible could now be made available to journalists. [42](p1)

6.24 The US State Department Report 2003 cites that “A Government censorship board reviewed films before licensing them for distribution. The board censored material deemed offensive to public morals or communal sentiment.” ... [2c](p17)

Treatment of Journalists

6.25 According to the US State Department Report 2003, “The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir. Under the Act, a district magistrate may prohibit the press from publishing material likely to incite murder or any act of violence, and authorizes the authorities to seize newspaper premises and printing presses. Despite these restrictions, newspapers in Srinagar, the capital of Jammu and Kashmir, reported in detail on alleged human rights abuses by the Government and regularly published press releases of Islamic separatist Kashmiri groups. The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on government abuses.” [2c](p16)

6.26 The BBC Country Profile May 2003 states that India’s private press is independent and active. The Official Secrets Act empowers the authorities to censor security-related articles. The authorities occasionally use the act to limit criticism of the government.[32av]

Freedom of Religion

Introduction

6.27 As cited in the 1997 report of the Special Rapporteur on religious intolerance, the preamble to the Indian Constitution proclaims India’s commitment to democracy and secularism and guarantees all citizens freedom of religion and belief as well as the right to practise religion freely. [6b](p3) According to the US Department of State International Religious freedom report 2003, “There are many religions and a large variety of denominations, groups, and subgroups in the country, but Hinduism is the dominant religion.” [2b](p2)

6.28 The Special Rapporteur’s 1997 report notes, the Penal Code prohibits and punishes any violation of tolerance and non-discrimination based on religion or belief: promoting enmity between different groups on grounds of religion (Section 135A); injuring or defiling a place of worship with intent to insult the religion of any class (Section 295); deliberate and malicious acts intended to outrage the religious feeling of any class by insulting its religion (Section 295A); disturbing religious assembly (Section 296); and uttering words with deliberate intent to wound religious feelings (Section 298) [6b](p4)

6.29 The Special Rapporteur’s 1997 report states, under the Representation of the People Act 1951, it is an offence for a candidate to call upon someone to vote or to abstain from voting by playing on his religion, or using religious symbols as a means of promoting that candidate’s election prospects. [6b](p5)

6.30 The US Department of State’s International Religious Freedom Report 2003 states, “According to the latest government estimates, Hindus constitute 82 percent

of the population, Muslims 12 percent, Christians 2.3 percent, Sikhs 2.0 percent, and others, including Buddhists, Jains, Parsis (Zoroastrians), Jews, and Baha'is, less than 2 percent. Hinduism has a large number of branches, including the Sanatan and Arya Samaj groups. Slightly more than 90 percent of Muslims are Sunni; the rest are Shi'a. Buddhists include followers of the Mahayana and Hinayana schools, and there are both Catholic and Protestant Christians. Tribal groups (members of indigenous groups historically outside the caste system), which in government statistics generally are included among Hindus, often practice traditional indigenous religions. Hindus and Muslims are spread throughout the country, although large Muslim populations are found in the states of Uttar Pradesh, Bihar, Maharashtra, West Bengal, Andhra Pradesh, and Kerala, and Muslims are a majority in Jammu and Kashmir. Christian concentrations are found in the northeastern states, as well as in the southern states of Kerala, Tamil Nadu, and Goa. Three small northeastern states have large Christian majorities--Nagaland, Mizoram, and Meghalaya. Sikhs are a majority in the state of Punjab". [2b](p1-2)

6.31 The United Nations Special Rapporteur on Religious Intolerance 1997 concluded that the situation in India relating to tolerance and non-discrimination based on religion is generally satisfactory. The country's commitment to democracy, sound democratic institutions, legislative and Government measures, and the secular nature of the State all contributed to religious tolerance in India. [6b](p14) In their Annual Report on International Religious Freedom, 2003, the U.S. Department of State concluded that despite the incidents of violence and discrimination during the period covered by the report, relations between various religious groups are generally amicable among the substantial majority of citizens. "There are efforts at ecumenical understanding that bring religious leaders together to defuse religious tensions." [2b](p14) The US State Department Report 2003 noted that, "...The Indian Government found that 80% of attacks on minorities were motivated by local incidents, economic arguments, or intra-denominational feuds". [2c](p20)

6.32 The Government has taken steps to promote interfaith understanding. The National Integration Council is a non-statutory body with an objective of maintaining social tranquillity and communal harmony. According to the US Department of State report for International religious Freedom 2003,"The National Commission for Minorities and the NHRC have appointed members and are tasked respectively with protecting the rights of minorities and protecting human rights. These governmental bodies investigate allegations of discrimination and bias, and can make recommendations to the relevant local or central Government authorities. These recommendations are generally followed, although they do not have the force of law." [2b](p2)

6.33 As stated in the US Department of State report for International Religious Freedom 2003, "The legal system accommodates minority religions' personal status laws; there are different personal status laws for different religious communities. Religion-specific laws pertain in matters of marriage, divorce, adoption, and inheritance." [2b](p2)

6.34 The US State Department Report 2003 stated that "No registration is required for religions. Legally mandated benefits are assigned to certain groups, including some groups defined by their religion. For example, some States reserve jobs and educational enrolment slots for Muslims, who do not benefit from reservations

designed to help lower caste Hindus”. [2c](p19)

6.35 The US State Department Report 2003 cited that, “The Religious Institutions (Prevention of Misuse) Act makes it a criminal offence to use any religious site for political purposes or to use temples for harbouring persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The Religious Buildings and Places Act requires a State Government-endorsed permit before construction of any religious building may commence in the State.” [2c](p19)

6.36 According to the US State Department report on Religious Freedom 2003 reported that in March the Gujarat Freedom of Religion Act was passed. “The act requires those involved with a conversion to seek the permission, both before and after the conversion ceremony, of the district collector, who is the sole arbiter of the validity of each conversion. This act also requires the police to investigate cases of forced or induced religious conversions. As with the Tamil Nadu anticonversion law, punishments are greater for women, scheduled castes, and “tribals.” [2b](p5) A BBC news report dated 26 March 2003 reported that politicians in India’s western state of Gujarat approved the controversial bill ostensibly designed to stop forced religious conversions. Many opponents fear it could be used to target Christian and Muslim minority communities. The Freedom of Religion bill has been modelled on similar legislation introduced in the state of Tamil Nadu and already on the statute books in the states of Madhya Pradesh and Orissa. The text of the proposed bill is not yet widely available but there are indications that it may be more stringent than existing legislation in other states. Penalties for people convicted of carrying out conversions using allurements or force include up to three years in prison and a fine of 50,000 rupees. Under the terms of the bill, a conversion must be assessed by officials and prior permission given by the District Magistrate to be lawful. Conversions which are found to be genuine and voluntary but where prior permission was not secured from the District Magistrate could also be punished with up to one year in prison and a fine of 1,000 rupees. [32bk]

6.37 As stated in the US Department of State report for International religious freedom 2003, for 2003, “There were no reports of religious prisoners or detainees.” [2b](p9) The report also stated that “Despite the incidents of violence and discrimination during the period covered by the report [2003], relations between various religious groups generally are amicable among the substantial majority of citizens. There are efforts at ecumenical understanding that bring religious leaders together to defuse religious tensions. The annual Sarva Dharma Sammelan (All Religious Convention) and the frequently held Mushairas (Hindu-Urdu poetry sessions) are some events that help improve inter community relations. Prominent secularists of all religions make public efforts to show respect for other religions by celebrating their holidays and attending social events such as weddings. Institutions such as the army consciously forge loyalties that transcend religion.” [2b](p14)

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Muslims

6.38 A 1997 report of the Special Rapporteur states that Muslims constitute India's largest minority as well as the second largest Muslim community in the world after Indonesia, and before that of Pakistan. [6b](p7)

6.39 The Special Rapporteur's 1997 report noted that the Indian authorities do not restrict the religious activities of Muslims. Muslims have freedom of religious practice and freedom to organise their services according to their codes, religious teachings and customs. [6b](p7)

6.40 The Special Rapporteur noted that Muslims in India have their own educational establishments, including the madrasa religious schools responsible for disseminating the teachings of Islam. Muslims possess a large number of places of worship as well as the Waqf Board, which is responsible for the management of property belonging to religious communities and charitable institutions. [6b](p8) According to the United Nations Background Paper 1998, Muslims are reportedly under-represented in the civil service, the military and institutions of higher education. [6e](p20)

6.41 The United Nations Background Paper 1998 states that Jammu and Kashmir is the only State in India where Muslims are in the majority. [6e](p7) The 1997 report of the Special Rapporteur notes that here, the religious situation is seriously affected by the armed conflict between the Indian army and the militant extremists. Several mosques have been destroyed in India, including the Babri Masjid in Ayodhya on 6 December 1992 and the Charar-e-Sharief sanctuary in Jammu and Kashmir on 11 May 1995. The UN Rapporteur stated that according to official and non-governmental observers, the destruction of the Babri Masjid was an aberration which could not be interpreted as evidence of an official policy of religious intolerance directed against Muslims. [6b](p9)

6.42 Keesings Record of World Events notes the BJP and its allies had called repeatedly for the mosque at Ayodhya (built in the 16th century by the Mughal emperor Babar) to be replaced by a temple honouring the Hindu deity, Lord Ram. [5a](p1) According to Europa world year book in 1990 the then BJP leader, Lal Krishna Advani, led a procession of Hindu devotees to the town to begin construction of a Hindu temple. Paramilitary troops were sent to Ayodhya and thousands of Hindu activists were arrested in an attempt to prevent a Muslim-Hindu confrontation. However following repeated clashes between police and crowds, Hindu extremists stormed and slightly damaged the mosque and laid siege to it for several days. [1a]

6.43 Keesings Record of World Events note that on 6 December 1992 around 100,000 Hindu kar sevaks (construction volunteers) responded to a call by the BJP and other Hindu organisations, including the Rashtriya Swayamsevak Sangh (RSS) and the Vishwa Hindu Parishad (VHP) - World Hindu Council - to resume construction work on the temple at Ayodhya. A small mob of Hindu zealots stormed past guards and razed the mosque to the ground. Within hours of the mosque's destruction, Ayodhya was gripped by fighting between Hindus and Muslims. By the following day there were reports of numerous deaths and arson attacks on Hindu and Muslim shrines across India despite strict security arrangements in most States. The worst affected cities were Bhopal, Bombay, Calcutta, Delhi, Jaipur, Kanpur and Surat. Southern States were also affected. [5a]

6.44 The Indian Government strongly condemned the desecration and demolition of the holy building and pledged to re-build it. The leaders of the BJP, including L.K. Advani and the party's President, Dr. Murli Manohar Joshi, and the leaders of the VHP were arrested, the BJP Chief Minister of Uttar Pradesh resigned, the State legislature was dissolved and Uttar Pradesh was placed under President's Rule. On 8 December 1992 the security forces took full control of Ayodhya, including the disputed complex, meeting with little resistance. [1a]

6.45 As cited in an unstarred question to the Rajya Sabha, a few days later the Government banned five communal organisations, 3 Hindu and 2 Muslim, under the Unlawful Activities (Prevention) Act 1967 [27], on the grounds that they promoted disharmony among different religious communities. [1a] As cited in an unstarred question to the Rajya Sabha the banned organisations were: VHP, RSS, Bajrang Dal, Islamic Sevak Sengh (ISS) and Jamaat-I-Islami Hind. [27] The ban on these groups has since been lifted, as cited in the statement in reply to the Lok Sabha unstarred question. [28]

6.46 As reported by Reuters in 1997, it was not until September 1997 that a court indicted 49 people on criminal charges over the demolition of the mosque. Among them were Lal Krishna Advani, then BJP President; Murli Manohar Joshi, former BJP President; and Bal Thackeray, the leader of Shiv Sena. The charges included rioting, creating hatred between two religious communities, defiling a place of worship and causing grievous hurt by threatening and damaging the life and safety of others. The BJP leaders claimed they were innocent and that the party was not responsible for destroying the mosque. [8c] According to a BBC news article dated 19 September 2003, in September 2003 a court in India ruled that Deputy Prime Minister LK Advani would not be tried in relation to the 1992 destruction of the mosque at Ayodhya. However the court recommended that seven other leading Hindus should be charged with inciting Hindu mobs to destroy the Babri mosque. [32b]

6.47 As cited in correspondence from the Foreign and Commonwealth Office in 1992, various parts of India have suffered inter-communal violence between Hindus and Muslims. In the State of Gujarat, such violence pre-dates Indian independence. The antagonism has also been exacerbated by non-religious considerations. [7a]

6.48 Reuters reported in 1999 that at the end of December 1998, 5 people were killed and 50 wounded in Karnataka, and 3 were killed in religious clashes in Amod in Gujarat. [8e] CNN reported in June 2000, a bomb had exploded in a mosque in Guntur, Andhra Pradesh, wounding two people and prompting mob attacks that injured five others. [33d] According to a BBC report on 11 July 2000 10 people died in Malpura, Rajasthan after clashes between Hindu and Muslim groups. The riots were sparked by the fatal stabbing of a Hindu man who was facing charges relating to several killings that occurred in Malpura after the destruction of the Ayodhya mosque. [32c]

6.49 Keesings Record of World Events, February 2002 reported that on 27 February 2002, a campaign of sectarian violence was triggered in Godhra, Gujarat by an attack on a train carrying Hindu activists. At least 58 passengers were burnt to death and 43 injured, the fatalities including 26 women and 14 children. The Hindus were returning from a visit to the disputed religious shrine at Ayodhya. News of the massacre sparked a number of retaliatory attacks by Hindus the same day, swelling the following day to a

wave of violence in towns and cities across the State. In the [State] capital, Ahmedabad, crowds looted and burned Muslim-owned shops, hotels, restaurants, and petrol stations. In one incident, 38 Muslims were said to have burnt to death when a mob isolated and burnt down six bungalows. [5j] Keesings Reported in 2002 that by 12 March 2002, mob attacks and arson had claimed an estimated 700 lives, most of them Muslim. [5k]

6.50 In Keesing's news digest for April 2002 they reported that during April 2002, the sporadic violence spread through Gujarat State to Kutch in the west, which had been previously untouched. An estimated 100,000 Muslims were in relief camps having been driven from their homes. [5l]

6.51 The US State Department Report 2003 notes that "In its final report on Gujarat, released in June 2002, the NHRC held the Gujarat Government responsible for the riots and accused it of "a complicity that was tacit if not explicit." The report concluded that "there is no doubt, in the opinion of this Commission, that there was a comprehensive failure on the part of the State Government to control the persistent violation of rights of life, liberty, equality, and dignity of the people of the State." The report recommended a CBI inquiry into the communal riots, which the State Government subsequently refused to allow. [2c] (p20) The BBC reported on 19 February 2003 that by February 2003, almost 80 people had been arrested for their involvement in the Godhra attack. The Gujarat authorities indicated that they intended to charge most of those arrested under the POTA. [32ao]

6.52 According to a BBC news report of 12 September 2003, India's Supreme Court launched a scathing attack on the authorities in the state of Gujarat over their handling of a riot in 2002 in which 12 Muslims were burned to death in a bakery by a Hindu mob (now known as the Best Bakery case). Twenty-one Hindus were acquitted of killing the Muslims in a controversial ruling in June 2002 after many of the prosecution witnesses withdrew their evidence. The incident came during rioting in Gujarat in which more than 1,000 people, most of them Muslims were killed. [32bm] A BBC news report for 19 September 2003 reported that Gujarat's State Government later agreed to seek a re-trial of the 21 Hindus acquitted following criticism from the Supreme Court. [32bn]

6.53 BBC news reported on 22 January 2004, Federal police arrested 12 people on charges of murder and gang rape during the 2002 Gujarat riots. They face charges in connection with an attack on a Muslim group by a Hindu mob in March 2002. [32cs] BBC reported on 12 February 2002 that India's Central Bureau of Investigation submitted a report to the Supreme Court on an alleged gang rape and murder of Muslims during the 2002 Gujarat riots. It is alleged that 3 women were raped and fourteen Muslims killed in the incident. The CBI was asked to follow up the case as a result of India's National Human Rights Commission's support of a key eyewitness. Thirteen people have been arrested by the CBI including a policeman for allegedly tampering with evidence. The case is due before the Supreme Court with more than 10 Gujarat riot cases currently before the Supreme Court. [32ct]

6.54 The BBC reported on 27 September 2002 that on 24 September 2002, two gunmen attacked the Swaminarayan Temple in Gandhinagar, Gujarat. A total of 31 people were killed in the attack. The two gunmen who carried it out were also killed. Hundreds of Muslims in Gujarat again took temporary refuge in camps or in Muslim-

majority areas, after officials announced that the temple attackers were Islamic radicals. [32aj]

6.55 The BBC reported on 17 April 2003 that a Muslim woman had been elected as the mayor of Ahmedabad, Gujarat, becoming the first Muslim mayor of Ahmedabad. [32au]

6.56 According to BBC news dated 21 November 2003, at least 26 people were wounded when unknown attackers threw an explosive device into a mosque in Prabhani, (250 miles east of Mumbai). [32cu]

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Christians

6.57 According to a report on religious intolerance by the Special Rapporteur in 1997, Christians constitute the second largest minority in India, after Muslims. The Indian authorities do not interfere with their internal religious activities, which may be conducted freely. Christians are well integrated into Indian society. [6b](p10&12)

6.58 The Special Rapporteur's report of 1997 noted that the public schools provide secular education. Minorities can establish their own schools; these include schools providing a general education but in addition offering religious instruction to Christian pupils. Also religious establishments such as seminaries provide religious instruction. [6b](p11)

6.59 According to a report by the Special Rapporteur in 1997, there is constitutional freedom to produce and disseminate religious publications, including the Bible. [6b](p12)

6.60 The Special Rapporteur noted in his 1997 report that Christians have an adequate number of places of worship, although there have been isolated cases of obstacles to the construction of places of worship. This is attributed to slow administrative procedures, affecting all communities. [6b](p12)

6.61 According to the US State Department Report 2003, "There is no national law that bars a citizen or foreigner from professing or propagating his or her religious beliefs...During the year, State officials continued to refuse to issue permits for foreign Christian missionaries to enter some northeastern States, on the grounds of political instability in the region." [2c](p20) A BBC news report dated 26 March 2003 reported that in March 2003, a bill to stop forced religious conversions was introduced in Gujarat. The Freedom of Religion Bill was modelled on similar legislation introduced in December 2002 in Tamil Nadu, and legislation already on the statute books of Madhya Pradesh and Orissa. Under the terms of the bill, a conversion must be assessed by officials and prior permission given by the District Magistrate to be lawful. [32at] A further BBC news report dated 6 June 2003 reported the laws forbid any religious conversions carried out under "force, fraud or allurement". [32aw]

6.62 It was reported in December 2002 by the BBC that police arrested 10 people in Tamil Nadu who were organising a mass baptism and cordoned off the site. BBC news also reported in December 2002 that thousands of low-caste Hindus (Dalits) were to be converted to Christianity and Buddhism and the event was being planned

by Christian and Dalit groups to counter-act a tough new anti-conversion law. The Christian leaders insist the conversions are voluntary but some Hindu leaders accuse the Christians of bribing the poor by offering inducements to convert.[32ax]

6.63 In a Reuters news report 1998, it was reported that the United Christian Forum for Human Rights (UCFHR) in India stated that it had recorded nearly 120 cases of rape, Bible burning, assault and other forms of violence against Christians during 1998. This compared to 40 cases recorded between 1964 and 1996. [84] Reuters reported in 1999 that most of these incidents have occurred in Gujarat. It is said that those extremist groups that have been terrorising Christians have been emboldened by the BJP's coming to power at the head of a coalition Government. The BJP also forms the State Government of Gujarat. [8h]

6.64 According to a Reuters news report 1999 some of the worst violence occurred in the Dang district of Gujarat, where Hindu mobs went on the rampage for several weeks starting on Christmas Day 1998. The attackers burnt churches and missionary schools, and injured priests and nuns. [8g] A Reuters news report 1999 reported that the VHP denied instigating such violence, but it criticised evangelists who it said were forcing Hindus to convert. The VHP regarded these conversions as an assault on the Hindu religion and culture, but Christians dismissed these accusations. [8f]

6.65 According to a Reuters news report 1999, Prime Minister Vajpayee, who visited the Dang area, stated that the Government would not tolerate any further attacks on the Christian minority. The Union Home Ministry sent a team of officials to investigate the attacks. Security forces were deployed in the affected areas to guard missionaries and churches. [8g] An Amnesty International news release dated 25 January 1999 noted that further violence took place on the day the Gujarat Chief Minister rejected an interim report by the National Commission for Minorities on the situation in the State as "biased and one-sided". The report found that attacks on Christians and their property had been carried out with the connivance of Hindu groups and was critical of the Gujarat Government's role in failing to protect minorities. [3e](p1-2)

6.66 Amnesty International news release 1999 reported that concerns had been expressed that these attacks had been carried out directly by, or in connivance with, right wing Hindu groups with links to the ruling BJP, including the VHP and Bajrang Dal. These groups had spoken out strongly against the alleged forcible conversion of tribal people and others by Christian missionaries, justified attacks on Christians and their property and advocated their expulsion from India. [3e](p2)

6.67 The 1999 Amnesty report cited that much of the violence against Christians has centred around deprived areas of India where Christian missionaries have traditionally carried out development activities with tribal and dalit communities, organising health and educational services. [3e](p2)

6.68 Reuters reported in 1999, in Orissa an Australian missionary, Graham Staines, and his 2 sons were burnt alive in their jeep in late January 1999. [8i] The Indian news agency PTI reported in February 1999, the Indian Government ordered a judicial inquiry into the incident to be conducted by a sitting Supreme Court judge. [10d]

6.69 According to a Reuters report dated 8 June 1999, the Wadhwa Commission, which investigated the murder of Graham Staines and his sons, presented its report on 6 August 1999. The report concluded that Dara Singh, a Hindu fundamentalist, was responsible for leading and inciting a crowd into the murder of Staines and his sons and that there was no evidence that any authority or organisation was involved. [8p] A press release of 12 August 1999 by Christian Solidarity Worldwide noted that the President of the All India Christian Council, Dr Joseph D'Souza, and the National Convenor of the United Christian Forum for Human Rights, John Dayal, expressed disappointment in the Commission's findings. They deplored the State authorities and central Government for their failure to provide the Commission with all the facts about the violence against the Christian community in India. They stated that the Commission had not been given a free hand to investigate and the Government had rejected demands that the terms of reference of the Commission be expanded to examine the totality of anti-Christian violence which culminated in the murder of Graham Staines. [17]

6.70 A CNN news report dated 2 December 1999 stated that on 1 December 1999, Junior Home Minister I.D.Swami said an investigative report into the murder of Graham Staines had found that Staines did not try to convert villagers. [33b]

6.71 According to a BBC news report dated 1 February 2000 Dara Singh was finally arrested on 31 January 2000 in a village in Orissa. [32g]

6.72 A BBC news report dated 2 October 2000 reported that in October 2000 a 13 year-old boy was sent to a juvenile detention centre for 14 years for his role in the murder of Staines. Sudarshan Hansda was tried separately because of his age. His was the first conviction in the case. [32w] It was reported in the US State Department Report 2003 that "The trial of Dara Singh and his 12 associates for the 1999 murder of Australian missionary Graham Staines and his two sons concluded during the year. On September 23, the court sentenced Dara Singh to death and his associates to life imprisonment. In October, Singh appealed his sentence to the Orissa High Court." [2c](p219) BBC news reported the same day that on 15 September 2003 Dara Singh and twelve others were convicted at a special court in the eastern state of Orissa and another acquitted due to lack of evidence.[32by] According to a BBC news report on 22 September 2003 the ringleader received the death sentence and twelve others received life imprisonment for burning Graham Staines and his two sons alive. The death sentence is used rarely in India and is reserved for the most serious crimes, defendants have the right to appeal all the way to the Supreme Court and can then ask for a presidential pardon. [32bp]

6.73 According to a BBC news report dated 8 June 2000, violence against Christians continued during 2000. In May 2000, a bomb blast in a crowded congregation in Machlipatnam, Andhra Pradesh, left 30 people injured. Three further explosions occurred on 8 June 2000, in the States of Andhra Pradesh and Karnataka, injuring 4 people. [32m] A BBC news report dated 24 June 2000 stated that Prime Minister Atal Behari Vajpayee spoke out strongly about these incidents. He called on State Governments to "firmly and impartially investigate all incidents of violence against Christians in India", and commenting on the spate of attacks he called them an "aberration and an exception to the general texture of peaceful and cordial relations between the various communities". [32o] The US State Department Report 2003 noted

that some Christian groups also claimed that BJP officials at state and local levels became increasingly uncooperative. The Government was also criticised for not taking action to restrain radical Hindu groups.[2c](p20)

6.74 It was noted in the US State Department Report 2003 that, "Christian leaders noted a slight decrease in incidents of violence against their community and a change in the type of incident; however attacks against Christians continued." [2c](p21)

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Sikhs and the Punjab

Sikh religion and historical background

6.75 According to the US Department of State International Religious Freedom Report 2003, according to the latest government estimates Sikhs constitute 2.0 percent of the population.[2b](p1)

6.76 As noted in a background paper published in 1990 by the Immigration and Refugee Board Documentation Centre, Ottawa, Canada the Sikh religion was founded by Guru Nanak (1469-1539), a high caste Hindu who denounced social and State oppression. He took monotheism from Islam, but rejected Ramadan, polygamy and pilgrimages to Mecca. He also rejected Hindu polytheism, the caste system and sati (sacrificing a widow on her husband's funeral pyre). Nine gurus succeeded Nanak. The Sikh commandments include certain prohibitions, notably against alcohol and tobacco. For men the Sikh religion requires observance of the "5 Ks": Kes (uncut hair and beard); Kacch (breeches); Kirpan (a double-edged sword); Kangh (a steel comb); and Kara (an iron bangle). [4a](p7-8)

6.77 As noted in a background paper published in 1990 by the Immigration and Refugee Board Documentation Centre, Ottawa, Canada new religious ideologies early in the 20th century caused tensions in the Sikh religion. The Akali Dal (Army of the Immortals), a political-religious movement founded in 1920, preached a return to the roots of the Sikh religion. The Akali Dal became the political party that would articulate Sikh claims and lead the independence movement. [4a](p9)

6.78 According to an Asia Watch report (undated) following the partition of India in 1947, the Sikhs were concentrated in India in east Punjab. Sikh leaders demanded a Punjabi language majority State which would have included most Sikhs. Fearing that a Punjabi State might lead to a separatist Sikh movement, the Government opposed the demand. [22](p12-13) As noted in a background paper published in 1990 by the Immigration and Refugee Board Documentation Centre, Ottawa, Canada, in 1966 a compromise was reached, when two new States of Punjab and Haryana were created. Punjabi became the official language of Punjab, and Chandigarh became the shared capital of the two States. However the agreement did not resolve the Sikh question. [4a](p10)

6.79 The IRB Background paper 1990 reported that tensions between Sikhs and New Delhi heightened during the 1980s, as the Government did not respond to Sikh grievances. Over the years that followed, Punjab was faced with escalating confrontations and increased terrorist incidents. Akali Dal only achieved limited

concessions from the Government and Sikh separatists prepared for battle. Renewed confrontations in October 1983 resulted in Punjab being placed under central Government authority. [4a](p12-13)

6.80 According to a 2003 Amnesty International report: India Break the cycle of impunity and torture in Punjab, "The militancy period began in the early 1980's when a movement within the Sikh community in Punjab turned to violence to achieve an independent state of the Sikhs, which they would call Khalistan. Some sections of the ruling Congress party, whose support base included urban Hindu traders, fomented this radicalization in order to weaken their main parliamentary opposition in the state, the Akali Dal party, which represented the Sikh peasantry with a more moderate agenda. In 1982 the Akali Dal launched a civil disobedience campaign against a decision to divert a river vital to Sikh farmers in the state. A number of Sikh organizations were banned and several leaders of militant groups took shelter in the Golden Temple in Amritsar." [51](p4)

6.81 As noted in the Amnesty report on the Punjab 2003, "The radicalisation of the movement for Khalistan was met with arrests under a series of national security laws that were introduced during the 1980's to meet the "terrorist" threat in Punjab but were enforced also in other parts of India and maintained for several years after the end of the militancy period in Punjab." [51](p4)

6.82 According to Asia Watch report on the Human Rights in India, the violence continued and hundreds of Sikhs were detained in the first part of 1984. Followers of Jarnail Singh Bhindranwale established a terrorist stronghold inside the Golden Temple in Amritsar. The Prime Minister, Indira Gandhi, then initiated Operation Blue Star which took place on 4-6 June 1984. The Golden Temple was shelled and besieged by the army to dislodge the terrorists. The fighting continued for five days. Bhindranwale was killed and there was serious damage to sacred buildings. [22](p18)

6.83 The Asia Watch report stated that official figures put the casualties at 493 "civilians/ terrorists" killed and 86 wounded, and 83 troops killed and 249 wounded. Later in the year official sources put the total number killed at about 1,000. Unofficial sources estimated that the civilian casualties alone were much higher. There were apparently more than 3,000 people in the temple when Operation Blue Star began, among them 950 pilgrims, 380 priests and other temple employees and their families, 1,700 Akali Dal supporters, 500 followers of Bhindranwale and 150 members of other armed groups. [22](p18)

6.84 According to a Canadian IRB issue paper dated 1989, The intervention had disastrous consequences for the Sikh community and the whole country. Sikh-Hindu communalism was aggravated, Sikh extremism was reinforced, and political assassinations increased. [4a] (p15)

6.85 As cited in Asia Watch report on 31 October 1984 Indira Gandhi was assassinated in New Delhi by two Sikh bodyguards. In the days that followed, anti-Sikh rioting paralysed New Delhi, ultimately claiming at least 2,000 lives; unofficial estimates were higher. Sikhs were also attacked in other cities in northern India. [22](p19)

6.86 Asia Watch in the Punjab in Crisis report, noted that a peace agreement was concluded between the Indian Government and moderate Akali Dal Sikhs led by

Harchand Singh Longowal in July 1985, which granted many of the Sikh community's longstanding demands. However the extremists regarded Longowal as a traitor to the Sikh cause and he was assassinated in August 1985. Moreover the promised reforms did not take place. [22](p22)

6.87 According to the Europa World Yearbook, 1998, in 1987 the State Government was dismissed and Punjab was placed under President's Rule. Despite the resumption of discussions between the Government and the moderate Sikh leaders, the violence continued. [1a]

6.88 It was reported in the Europa World Year Book, 1998, that President's Rule was finally brought to an end following elections in February 1992, which were won by Congress (I). However the elections were boycotted by the leading factions of Akali Dal and attracted an extremely low turnout (only about 22% of the electorate). Beant Singh of the Congress (I) was sworn in as Chief Minister, but his Government lacked any real credibility. Despite the continuing violence between the separatists and the security forces, the large turnout in the municipal elections in September 1992, the first in 13 years, afforded some hope that normality was returning to Punjab. The local council elections in January 1993, the first for 10 years, also attracted a large turnout. [1a]

6.89 According to a Reuters news report of 7 September 1996 on 31 August 1995 Beant Singh was killed by a car bomb which exploded outside the Punjab Secretariat in Chandigarh. [10a]

6.90 Pakistan handed over 16 Sikh prisoners to the Indian officials in September 2003 as a goodwill gesture. Pakistan also released 269 fishermen who had been jailed for illegally entering Pakistan's territorial waters.[46]

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Militant violence in Punjab

6.91 According to an Asia Watch report, Punjab in crisis, virtually all of the militant groups in Punjab pursued their campaign for a separate State of Khalistan through acts of violence directed not only at members of the police and security forces but also specifically at Hindu and Sikh civilians. After they first emerged in the early 1980s the militants assassinated civil servants, politicians, journalists, businessmen, other prominent individuals and ordinary Hindu and Sikh civilians. There were also indiscriminate attacks apparently designed to cause extensive civilian casualties, in some cases firing automatic weapons into residential and commercial areas, derailing trains, and exploding bombs in markets, restaurants and other civilian areas. Some of these attacks occurred outside Punjab in neighbouring States and in New Delhi. [22](p170)

6.92 The Asia Watch report states that most of the militant groups in Punjab traced their origins to Sant Jarnail Singh Bhindranwale. After the storming of the Golden Temple the number of militant groups operating in Punjab grew. The militants were organised into at least seven major groups and all theoretically operated under the authority of one of the Panthic Committees which functioned as decision making bodies and issued instructions. The main militant organisations were: the Khalistan Commando Force (Paramjit Singh Panjwar faction); Khalistan Commando Force (Zaffarwal); Khalistan

Commando Force (Rajasthani group); Babbar Khalsa; Khalistan Liberation Force (Budhisingwala); Bhindranwale Tiger Force of Khalistan (Sangha); Bhindranwale Tiger Force (Manochahal); All India Sikh Student Federation (Manjit); All India Sikh Student Federation (Mehta Chawla); and the Sikh Student Federation (Bittu). [22](p170,172-173)

6.93 Asia Watch reported in their Punjab in Crisis reported that “motives for the attacks varied. Moderate Sikh political leaders were assassinated for opposing the militants. Other leaders were killed as a result of militant group rivalries. A number of militant groups tried to impose a Sikh fundamentalist ideology, issuing directives that stipulated appropriate conduct for Sikhs and prohibiting the sale of tobacco and alcohol. Failure to obey these orders meant punishment, including death. In late 1990 and early 1991 militant groups issued “codes of conduct” for journalists which also carried a death penalty for those who dared to disobey. Sikhs belonging to minority sects, which advocated practices perceived as heretical by orthodox Sikhs, were also murdered. Attacks on civilians were claimed as acts of retaliation for Government violence. Other killings appeared to represent executions of suspected collaborators or informers. Militants also kidnapped civilians for extortion, frequently murdering their victims when their demands were not met. Threats were made to the minority Hindu population in an effort to drive them out of Punjab. As a result thousands of Hindus fled the State”. [22](p175)

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Human rights concerns in Punjab

6.94 Various human rights organisations have strongly criticised the Punjab police for their misuse of power during the 1980s and early 1990s. Amnesty International reported in a 1991 report on Human Rights Violations in Punjab: Use and Abuse of the law, that those who were arrested were...” detained for months or years without trial under provisions of special legislation suspending normal legal safeguards...”, and reports of torture during interrogation were said to be common. “The arrest and detention of some detainees remained unacknowledged for weeks or months. Amnesty had received reports that many people simply “disappeared”, with the security forces refusing to admit that they had ever been arrested. It was” feared that many of them had been killed in custody”. [3a](p2)

6.95 According to Amnesty International’s 2003 report India, Break the cycle of impunity in Punjab, “Torture and custodial violence continue to be regularly reported in Punjab, despite the end of the militancy period.” Amnesty claim that torture continues in police custody and says that the majority of the armed opposition groups are inactive in Punjab today and AI has received no reports of acts of torture perpetrated by their members after the end of the militancy period. “Similarly, the issue of impunity for abuses committed by these groups during the militancy period is marginal, as most of their members in the state were arrested or killed by security forces in counter insurgency operations in the early 1990’s.”[51](p2)

6.96 Amnesty International’s January 2003 report on the Punjab stated that “The 1980 National Security Act (NSA) amended in 1984 because of “the extremist and terrorist elements in the disturbed areas of Punjab and Chandigarh”, provided powers to preventively detain people suspected of activities “prejudicial to the defence of India,

the relations of India with foreign posers or the security of India” for up to two years in Punjab and up to one year in the rest of India. The Terrorist Affected Areas (special Courts) Act followed the NSA in 1984. The Terrorist and Terrorist and Disruptive Activities (Prevention) Act, in force from 1985 to 1995, subsequently provided the police in Punjab with sweeping powers of arrest and detention. These laws left the heaviest legacies of the militancy period on policing methods in the state and the rest of the country. They explicitly freed the police from accountability to the criminal justice system for actions undertaken in “good faith”, allowing officers to believe themselves beyond the reach of law.”[51](p4-5)

6.97 Amnesty International reported in 2003 in the Punjab report that “Human rights violations by the police during the decade of militancy were widespread. Indiscriminate and arbitrary arrests continued in this period, setting a pattern which continued until the mid-1990’s. Civilians were often arrested solely for being related to or living in the same village as members of armed opposition groups.” Unofficial blacklists were circulated to all police stations and persons on this list were liable to be rearrested during militant activity in the area. Arrests frequently occurred to reach a quick resolution or to fill quotas. Procedures were often not adhered to and often not logged leaving detainees vulnerable to abuse. Detainees were moved around, making tracing them difficult. Torture was widespread, used as both punishment and as a substitute for investigation. Following death in custody, police organized post-mortems and cremations eliminating the possibility of independent investigation into the cause of death. Undercover agents were reportedly used to infiltrate militant groups to kill and discredit militants. “Disappearances and the killing of armed opposition groups and their supporters by the police in real or staged “encounters” were frequent. They were tolerated by the police authorities and government as a part of a policy to eliminate armed opposition groups.”[51](p5)

6.98 Amnesty International stated in their 1991 Punjab report, “Most detainees in Punjab were arrested under the Terrorist and Disruptive Activities (Prevention) Act (TADA) [which lapsed in 1995], which allowed detention for up to one year without charge for investigation into broadly defined offences. Prisoners held under the Act could be tried in camera [i.e. in private] and the burden of proof was shifted onto the accused to prove his or her innocence”. [3a](introduction-p2)

6.99 Amnesty cited in an August 1999 report, India: a Vital Opportunity to End Impunity in Punjab, “ in the aftermath of the violence, many relatives of victims came forward to pursue redress in the courts through the filing of petitions in cases of “disappearance” and other human rights violations...However in attempting to pursue redress through the courts, many families have faced direct harassment from the police and long delays in the judicial process.”... [3g](p2)

6.100 Amnesty International reported in the 2003 report on the Punjab “In January 1995 the human rights wing of the Shiromani Akali Dal party alleged that it had evidence showing that, during the period of militancy, Punjab Police had carried out secret cremations of hundreds of “unclaimed” bodies in the crematoria of Amritsar district.” Some of the bodies were allegedly those of people who had disappeared and been extrajudicially executed in police custody.”[51](p9)

6.101 According to Amnesty International's 2003 report, "In April 1995 the Committee for Information and Initiative on Punjab (CIIP), a non-governmental human rights organization based in New Delhi, successfully petitioned the Supreme Court for an investigation of these allegations." The Supreme Court instructed the CBI to carry out investigations into the allegations and on analysis of the evidence available in three crematoria in Amritsar, found that 2,097 bodies had been illegally cremated by police. In December 1996 the Supreme Court ordered the National Human Rights Commission (NHRC) to examine the CBI's findings. In January 1999 the NHRC stated that it would limit its investigations to the cremations of 2,097 bodies investigated by the CBI in Amritsar district and invited claims for monetary compensation from victims' families.[51](p10)

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Methods of ill treatment

6.102 The Medical Foundation for the Care of Victims of Torture 1999 examined 95 male Sikhs between 1991 and 1999, of whom all but eight were educated to at least secondary school level, and roughly half came from farming families and worked on the farm after finishing their education or had farming related jobs. The majority had belonged to an organisation such as the All India Sikh Student Federation. Most had been arrested on many occasions, usually for a short time ranging from 1 to 10 days, but the total time in custody ranged from 2 days to 8 months. Most were held by the police in the village police station, and a large majority were never charged with any offence. Some of the Sikhs in the study stated that in addition to their detentions, they had been arrested, questioned and threatened many times, but not detained overnight. [30](p11-14)

6.103 All of the Sikhs examined by the Medical Foundation as part of the study as cited in the 1999 Care of Victims of Torture report, claimed they had been severely ill-treated, usually worse in the first few days of detention. The methods of ill treatment included being beaten unconscious; being beaten with truncheons, fists, boots, lathis (bamboo canes), leather belts with metal buckles, pattas (leather straps with wooden handles), rifle butts, metal rods or a metal chain, and branches torn from a thorn bush. They were beaten on various parts of the body, but principally on the back, the legs or the buttocks. Beatings over the head and on the soles of the feet were also prevalent. Many had been suspended by the wrists, ankles or hair, and beaten; some had had their wrists tied behind their back and then were suspended, causing injuries to the shoulder joints. Electric shocks were given. Another torture method consisted of forcing the hips strongly apart, often to 180 degrees, repeatedly or continuously. A thick wooden roller or a ghotna (a pestle 4 feet long and 4 inches in diameter used for grinding corn) was often rolled down the calves or thighs with one or more of the heaviest policemen standing on it. [30](p14-15)

6.104 According to the 1999 Medical Foundation Report, much of this abuse took place during interrogation sessions, but beatings also occurred randomly at other times, including late at night when the policemen were drunk. As well as physical abuse, many suffered psychological abuse such as threats of further punishment, death or harm to their families, mock executions and extreme humiliation. [30](p15)

6.105 The Medical Foundation report of 1999 found that most of the Sikhs in their study were released without charge after representations by the village elders, a politician or lawyer, but on many occasions only after the payment of a large bribe. [30](p17)

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Prosecution of security force personnel

6.106 The US State Department Report 2003 noted that "In Punjab the pattern of disappearances prevalent in the early 1990's appeared to have ended. Hundreds of police officials were not held accountable for the serious human rights abuses committed during the counter-insurgency of 1984-94. The CBI claims to be actively pursuing charges against dozens of police officials implicated in the "mass cremations" in which police in Amritsar, Patti, and Tarn Taran district secretly disposed of approximately 2,000 bodies of suspected militants." [2c] (p7)

6.107 The Times of India in September 1997 reported Union Home Ministry figures that 123 police officials were facing trial for taking alleged illegal steps against terrorists, while 2,555 petitions had been filed against Punjab police officers by individuals and human rights organisations. The same article referred to a protest by Punjab police which said that police officers who had played a key role in containing terrorism in Punjab were now being harassed and hounded for alleged excesses and human rights violations. The protest gained momentum following the suicide of the former Tarn Taran SSP Ajit Singh, who the police claim was driven to this step because of a "witch hunt". [13]

6.108 India Today June 1997 reported that police officers in Punjab felt abandoned by the Government and frustration was mounting in the force as more than 2,000 officers were being brought to account for the extra-judicial methods that were employed in fighting terrorism. In 1995, 585 petitions were filed in different courts. The number had doubled by June 1997, by which time the Punjab police were facing 85 CBI and 91 judicial probes. 30 policemen were in jail, around 100 were out on bail and 140 were facing prosecution. [11a]

6.109 According to the US Department of State Report 2003, "No action has been taken against the approximately 100 police officials who were under investigation for abuses committed while suppressing the violent insurgency in Punjab". [2c](p8)

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Punjab State Human Rights Commission

6.110 According to the Punjab Tribune dated August 1998, the Punjab State Human Rights Commission started work in July 1997 under the chairmanship of Justice V.K. Khanna, a former Chief Justice of the north east States. The Commission had intervened in a number of cases of police excesses, torture and custodial deaths, and the Punjab Government has been forced to pay compensation. The Commission had started to inspect jails, with prior notice being given to the State Government, but the Commission wanted the power to make unannounced visits. [12a]

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The Committee for Co-ordination on Disappearances in Punjab (CCDP)

6.111 As cited in a report on Current Human Rights Efforts dated 1 October 1998, this Committee came into existence in November 1997, when a variety of human rights organisations and political groups came together. Its purpose was to develop a voluntary mechanism to collect and collate information on disappearances in Punjab; to evolve a workable system of State accountability; and to lobby for India to change its domestic laws to conform to UN instruments on torture, enforced disappearances and accountability. The Committee was set up following the demand of Indian human rights groups that the independent and thorough investigation into complaints of disappearances in Punjab be allowed to proceed unhampered. [20](p13)

6.112 When asked for their views on the occurrence of disappearances, by the Danish Immigration Service on their fact-finding mission of March - April 2000, two members of the Committee observed that extrajudicial executions no longer took place in Punjab. This was not because of a change in the attitude of the police but because there was no terrorism left in Punjab. [37](p42)

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The People's Commission on Human Rights

6.113 According to Amnesty International's report India – Break the cycle of impunity and torture in Punjab January 2003, in December 1997 the CCDP called on the new Punjab government to set up a Truth Commission, following the refusal by the Government of Punjab to set one up. Its purpose was to investigate all complaints of human rights violations, according to its election manifesto. In April 1998 the CCDP announced its intention to set up a three person People's Commission on Human Rights Violations in Punjab, headed by a former Chief Justice of the Calcutta High Court. "The first hearing of the People's Commission was therefore held from 8-10 August 1998. However further hearings were cancelled because in 1999 the Punjab and Haryana High Court set limits on the work of the People's Commission claiming that it set up a parallel judicial system. Subsequently in May 2000 the Peoples' Commission was wound up following the Supreme Court upholding the High court judgement that the CCDP was establishing a parallel judicial system.[51](p13)

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The current situation in Punjab

6.114 According to Amnesty International in their report India – Break the cycle of impunity and torture in Punjab January 2003, the majority of the armed opposition groups are currently inactive in Punjab and AI have received no reports of acts of torture perpetrated by their members after the end of the militancy period which was mid 1990's. "Similarly, the issue of impunity for abuses committed by these groups during the militancy period is marginal, as most of their members in the state were arrested or killed by security forces in counter insurgency operations in the early 1990's." However Amnesty International raised concerns about the continuation of abuses committed by the police in the Punjab.[51](p1)

6.115 The US State Department Report 2003 noted that “In Punjab the pattern of disappearances prevalent in the early 1990’s has ended, however, hundreds of police and security officials were not held accountable for serious human rights abuses committed during the counterinsurgency of 1984-94.” [2c] (p7)

6.116 According to a Canadian IRB report dated 8 July 1998, the Sikh militant movement is no longer active in Punjab. The hard core militants have either been physically wiped out or are no longer in India. There is no obvious support for the militants. [4h] According to an expert report written by Cynthia Keppley Mahmood in 1998, two militant organisations retain a capacity for activism, namely the Babbar Khalsa under the leadership of Wadawa Singh and the Khalistan Commando Force led by Paramjit Singh Panjwar. They are believed to retain bases in Pakistan and to have an international circle of support. [19a]

6.117 Political representatives informed the UN Special Rapporteur on Religious Intolerance during his visit to India in December 1996 that Sikhs were the victims of a policy of intolerance and discrimination based on religion pursued by the authorities. This policy of religious repression reached a climax in June 1984 with the storming of the Golden Temple in Amritsar, and was followed by reprisals against Sikhs throughout India, but particularly in Delhi, after the murder of Indira Gandhi on 31 October 1984 by her Sikh bodyguards. It was alleged that Sikhs were being subjected to State terrorism which found expression in the desecration of holy places, murders, extra-judicial executions and forced disappearances of Sikhs. [6b](p12-13)

6.118 The Special Rapporteur was informed by other sources during his 1996 visit, including non-governmental and religious organisations, that the situation of conflict which existed in Punjab had no “religious basis, rather it was purely political”. The authorities were combating the development of a militant Sikh terrorist movement campaigning for a separate and autonomous Sikh State. The terrorists used religion to secure the support of Sikhs for a political cause. “Certain Sikh political parties had exploited that situation for their own ends in the hope of obtaining advantages and concessions from the authorities and of increasing their influence among the Sikh population by creating confusion between religious and political matters”. [6b](p13)

6.119 According to the Special Rapporteur’s 1997 report, the purpose of Operation Blue Star (the storming of the Golden Temple) undertaken in June 1984 had been to expel armed Sikh extremists from the sanctuary. There had been no intention of attacking the religious identity of Sikhs. These sources concluded that there was no religious problem, Sikhs enjoyed all their constitutional rights in the field of religion, including freedom of belief, freedom to practice their religion and freedom to proselytise. [6b]

6.120 The UN Special Rapporteur’s own conclusions based on the information he had received, and as set out in his report of February 1997 was that the situation of Sikhs in the religious field was satisfactory. There were difficulties in the political field (foreign interference and terrorism) and economic field (in particular with regard to the sharing of water supplies). The Special Rapporteur noted information that there was discrimination in certain sectors of public administration, for example fewer Sikhs in the police force and no Sikhs in personal bodyguard units. Malfunctions in the

administration of justice were described but they were connected with the anti-terrorist campaign rather than the Sikh beliefs of the accused. [6b](p14)

6.121 The South East Asia Straits Times reported in 1997 that Punjab had returned to the path of peace and prosperity once more. Police roadblocks and the constant military presence had gone. Businesses had re-established themselves and prosperity and affluence were clearly evident. [18]

6.122 The Documentation, Information and Research Branch (DIRB) of the Canadian Immigration and Refugee Board interviewed four specialists on the situation in Punjab in January 1997. "The panel broadly agreed that Sikh militancy in Punjab had been virtually eliminated...". Militant organisations had been shut down, reduced in size, key leaders arrested, gone underground or had abandoned the movement, and those supporters who remained have struggled to maintain funding and morale". Other indications were apparent of a weakened Sikh militancy. Nevertheless the Sikh search for some sort of political supremacy in the region remained a powerful ideology, and although the militants' ability to assert themselves had been suspended, future Sikh militant action could not be discounted. [4f](p3-4)

6.123 According to the Documentation, Information and Research Branch (DIRB) after interviewing four specialists in 1997: The panel agreed that, "The central Government had been attempting to rein in the Punjab police, who during the insurgency were responsible for large numbers of extrajudicial executions and disappearances". Investigations into allegations of human rights abuses, "have sent a strong signal that the climate of impunity for the Punjab police is ending...even though that climate has been deeply ingrained over many years and will take a long time to change"... Reference is also made to the extensive human rights training for the police in India, which is seen as an example of the general trend in India towards recognising and addressing systemic problems with the police. One of the panel members "acknowledged that occasional violations might still take place, he predicted that the likelihood of future disappearances at the hands of the Punjab police is very low". [4f](p6-7)

6.124 According to the Canadian IRB report 1997, one panel member stated that there had been a failure by all levels of the judiciary until the mid-1990s, to address gross human rights violations" but the Supreme Court was seen as clearly attempting to address the failure of the judiciary. Judicial protection in Punjab had improved and many people were using the judicial system. "...People who are not high profile militant suspects are not at risk in Punjab..." It was also stated by one panel member that "Sikhs with some slight perceived connection to the militancy – through a family member, for example – would not now be targets of the Punjab police". They have much less to fear from the police and now have better access to judicial recourse if they are treated improperly. [4f](9-11)

6.125 In May 1997 the DIRB also interviewed representatives of three human rights groups that work in Punjab, and one human rights lawyer from Punjab. All were agreed that the human rights situation in Punjab had improved since the violence between 1984 and 1995. The human rights activists were of the opinion that the "root causes of discontent and political friction in Punjab had not been addressed " The legacy of

55,000 civilian deaths and 1,700 police deaths between 1984 and 1994 would not be erased easily. [4g](p1)

6.126 According to the May 1997 DIRB report, Sikhs were coming forward in increasing numbers to press claims against the authorities, and people were beginning to have faith in the judicial process. Sikhs were bringing cases to human rights lawyers to be taken up in court, rather than to human rights groups for investigation, even though there were few lawyers taking on this type of work. However the human rights organisations were sceptical about the outcome of court cases against police officers, since the Government is providing senior lawyers to defend them and is still posting many officers to areas in which they are alleged to have committed abuses. One of the panel members was of the view however, that police officers on trial for serious offences would eventually be convicted. [4g](p2) As cited in the joint Danish Immigration Service/ Danish Refugee Council fact finding report of April 2000, "According to Ravi Nair, Director of the South Asia Human Rights Documentation Centre, a case involving a human rights violation will usually be reported at the local police station. The police will undertake an investigation and on that basis will decide whether a case should be brought. If no case is brought, the individual may bring a civil suit to the lower (district) court. Nair added that the case often stops there, as the court does not always proceed with the case"; however, he remarked that "it was easier to have a case heard in the courts than previously". [37](p30)

6.127 As cited in a statement dated May 1998 by Dr. Cynthia Keppley Mahmood of the University of Maine agrees that "Conditions in Punjab have greatly improved since the worst days of the early 1990s" and that "it is no longer accurate to say that any Sikh is at risk of persecution simply because of his or her religion". She refers to the work of the National Human Rights Commission and the prosecutions of individuals accused of human rights violations. Overt support for the militants has slipped dramatically, but the grievances that prompted the Khalistan movement are still there. [19b](p2)

6.128 According to DIRB report 1997, Sikhs no longer constituted a persecuted group, and rank and file members of groups that were at one time targeted (e.g. the AISSF) were in general terms safe. There were exceptions such as people with a local history of abuse at the hands of the police, who may continue a personal vendetta; and militants together with their close relatives and supporters who continued to be followed as potential seeds for further rebellion. [4g]

6.129 The Danish Immigration Service consulted various individuals, authorities and organisations regarding the security situation during their fact-finding mission to Punjab in March and April 2000. According to the UNHCR in Delhi, the security situation in Punjab is now under control, but as the UNHCR does not have a presence in Punjab they could not comment on the situation in detail. Three foreign diplomatic missions in India agreed that the situation in Punjab had considerably improved and that the conflict between various groups had calmed down. Acts of violence in Punjab were becoming less common, and were now at a low level. Two of the missions reported that incidents do occasionally occur, such as explosions caused by bombs on buses and trains, but that such incidents occur in the rest of India, and not exclusively to Punjab. Officials of the Committee for Co-ordination on Disappearances in Punjab (CCDP) considered that Punjab was now peaceful and that there were no problems with militant groups and no

political problems either. A foreign Embassy consulted, reported that several people who had previously been militants and who had served their sentences for terrorist activities now lived a normal life in Punjab. [37](p19)

6.130 As cited in their fact finding report of 2000, the Danish Immigration Service also spoke to Chief Minister Prakash Singh Badal, who underlined that there were now no security problems in Punjab. Badal underlined that co-operation between the State Government and central Government was good. Former Advocate-General G.S. Grewal pointed out that cases concerning human rights abuse were different from before in that now the abuse was individual and had specific reasons. Sikhs were not subjected to torture just because they were Sikhs or because of the general political situation. One diplomatic mission also commented that the situation was not perfect but that Sikhs in general were not being persecuted. The problems were of a different nature than before, and were often due to problems in local society, e.g. disputes over land, etc. [37] (p13,39 & 34)

6.131 The US Department of State Report 2003 stated, "In Punjab, the pattern of disappearances prevalent in the early 1990's has ended; however, hundreds of police and security officials were not held accountable for serious human rights abuses committed during the counterinsurgency of 1984-94" [2c](p7)

6.132 According to Amnesty International in their report India – Break the cycle of impunity and torture in Punjab January 2003, Since 1995 there have been no reports of killings of human rights defenders in Punjab although it is claimed that they are still subject to constant surveillance and have been subjected to harassment, threats and violent attacks by the police in attempts to intimidate and silence them.[51](p25)

6.133 The same 2003 AI report states that there has been an overall increase in crimes against women recorded in Punjab in the post militancy period, particularly with regard to matrimonial disputes. In response the police created "women cells" at district level to specifically deal with offences against women. However it is claimed these units lack staffing and other resources. [51](p24)

6.134 AI state in their 2003 report that the Supreme Court issued 11 directives known as the "DK Basu guidelines" to be followed in all cases of arrest or detention as preventive measures against torture in custody in addition to the safeguards in the Code of Criminal Procedure. The Director General of Police in Punjab has reportedly instructed the police force that these guidelines should be observed – in accordance with the Supreme Court's request to all DGP's. However they have not been incorporated into the Punjab Police Rules 1935 under which the police act.[51](p27)

6.135 Amnesty claim in the Punjab 2003 report that the failure to implement the legal safeguards for detainees, cannot be solely attributed to a lack of will of individual police officers but in part is linked to difficult working conditions in which most police operate in Punjab. The police authorities or the Punjab Human Rights Commission have initiated or ordered internal inquiries or taken disciplinary action against offending police officers involved in unlawful practices. However often it appears rarely involve consequences for the offenders, blaming this on the Senior Officers lacking the will to take forward and implement internal enquiries and take forward.[51](p28)

Internal flight for Sikhs

6.136 As cited in an IRB report dated January 1999, the Indian Constitution guarantees Indian citizens the right to move freely throughout the territory of India, and to settle and reside in any part of the country. These rights are subject to restrictions as imposed by law in the interests of the general public. Punjabi Sikhs are able to relocate to another part of India and as Sikhs are a mobile community, there are Sikh communities all over India. [41](p1)

6.137 According to an IRB question and answer series, December 1992, some 4 million Sikhs live in India outside Punjab. Sikh communities are found in most Indian cities and in virtually all States. They are generally urban and prosperous and they control important trades and occupy a prominent position within the central and regional administration. [4c](p1) An IRB response dated 12 January 1999 states that most Sikhs, particularly the better-educated and urban Sikhs, have some knowledge of English and/or Hindi. Punjabi Sikhs would have no more problem enrolling their children in school or obtaining employment than any other Indian relocating to a new area. [41]

6.138 According to an IRB response dated 12 January 1999, there are no checks on a newcomer to any part of India arriving from another part of India, even if the person is a Punjabi Sikh. Local police forces have neither the resources nor the language abilities to perform background checks on people arriving from other parts of India. There is no system of registration of citizens, and often people have no identity cards, which in any event can be easily forged. [41]

6.139 According to the Danish Immigration Service fact finding report 2000, "The Director of the South Asia Human Rights Documentation Centre believed that a high-profile person would not be able to move elsewhere in India without being traced, but that this would be possible for low-profile people". Sources from foreign diplomatic missions in India considered that there was no reason to believe that someone who has or has had problems in Punjab would not be able to reside elsewhere in India. Reference was made to the fact that the authorities in Delhi are not informed about those wanted in Punjab. [37](p53)

Buddhists and Zoroastrians

6.140 According to a report by the Special Rapporteur on religious intolerance, 1997, Buddhist and Zoroastrian minorities are able to practise their religion freely, possess adequate numbers of places of worship and religious publications, and refrain from proselytising among other communities. Buddhists and Zoroastrians are said to be fully integrated into society. [6b](p6)

Freedom of Assembly and Association

6.141 According to the US Department of State report 2003, (published in 2004) “The Constitution provides for the right of assembly and association, and the Government generally respected this right in practice. The authorities sometimes required permits and notification prior to holding parades and demonstrations, but local Governments ordinarily respected the right to protest peacefully, except in Jammu and Kashmir, where separatist parties are routinely denied permits for public gatherings. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code”. [2c](p18) According to Freedom House Survey report 2003, Section 144 of the Criminal Procedure Code empowers state-level authorities to declare a state of emergency, restrict free assembly, and impose curfews.[43]

6.142 The US Department of State report 2003, notes that “The Constitution provides for the right of association and the Government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorisation. More than 400 million persons made up the country's active work force and some 30 million of these workers are employed in the formal sector. The rest overwhelmingly were agricultural workers and, to a lesser extent, urban non-industrial labourers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these 13 to 15 million unionised workers, some 80 percent, were members of unions affiliated with 1 of the 5 major trade union centrals. All major trade union centrals are affiliated to a greater or lesser extent with particular political parties” [2c](p32)

6.143 BBC news reported on 24 February 2004, more than a million government employees took part in a one-day strike in India, affecting many government banks, offices and state-owned firms. Unions called the walk-out in protest at the Supreme Courts ban on the government's ban on the right to strike because of the disruption caused. [32 cr]

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Political Activists

6.144 According to a United Nations background paper dated October 1998, in Bihar, armed Naxalite groups had reportedly taken control of many villages across the State. Moreover, upper caste private armies and lower caste armed groups are engaged in a bitter struggle in which both groups have committed massacres with impunity on a monthly basis. [6e](p10) According to a BBC report dated 18 June 2000, Ranvir Sena, a private army sponsored by upper-caste landlords, were blamed for the killing of 34 lower-caste Hindus on 16 June 2000. The massacre, in Miapur, Bihar, appeared to be a revenge attack for the killing of 12 upper-caste Hindus a few days earlier. [32n] As reported in a CNN news report of 23 February 2000, Bihar is widely regarded as India's most lawless State. During State parliamentary elections there in February 2000, violent clashes and paramilitary raids caused 45 deaths. [33c]

6.145 According to a BBC news report dated 1 December 1999, there have been clashes between the police and the Naxalite revolutionaries of the People's War Group (PWG) – a Maoist-Leninist organisation formed in 1980, that has been waging an armed struggle for the creation of a communist State consisting of parts of Andhra

Pradesh, Maharashtra, Orissa and Madhya Pradesh. Nearly 400 people have been killed in clashes between the police and the Naxalites during 1999, including 31 policemen and 200 Naxalite activists, and more than 5,000 have died in violence between Naxalites and police since 1985. [32a] A BBC news report dated 23 July 2002 stated that in July 2002 the PWG set off a land-mine explosion in Andhra Pradesh, killing four policemen and seriously injuring 30 others. The attack followed the breakdown of peace talks between the PWG and State Government which had continued for two months making little headway. The State secretary of the PWG also announced the withdrawal of a unilateral cease-fire saying that the Government and the police had failed to reciprocate. [32ah]

6.146 According to a BBC news report dated 15 November 1999, separatist rebels intensified their activities in Tripura during 1999. The outlawed All-Tripura Tiger Force massacred at least 18 Bengali migrants and abducted 5 others from a market on 14 November 1999. Tripura's ethnic rebel groups claim they are upset with the ceaseless influx of Bengali migrants, from what is now Bangladesh, which has reduced the indigenous people of the State into a minority since 1949. [32a] Another BBC news report of 21 May 2000 reported that rebels from the National Liberation Front of Tripura (NLFT) killed 18 Bengalis and wounded 40 others in an attack on 21 May 2000. The previous day, Bengali militants had killed 9 tribal people. [32k]

6.147 A BBC news analysis report dated 9 December 2000, noted that nearly 100 Hindi-speaking people were killed in a six week period during November and December 2000 in Assam. The Chief Minister accused the ULFA of being responsible, an allegation denied by the group. Assam witnessed the massacres of Bengali settlers during the 1980s and 1990s. [32z]

6.148 A BBC news report of 7 July 2003 stated that on 6 May 2003 the police reported that separatist rebels killed 22 Bengali villagers in indiscriminate firing in Tripura. In a separate raid carried out later on a village market at Moharcherra, 10 more Bengali villagers were killed. Tripura's Chief Minister, Manik Sarkar alleged that the rebels who carried out the attack came from one of their bases just across the border in Bangladesh where he says several hideouts of the Tripura rebel groups exist. It is not known which of Tripuras several rebel ethnic groups was responsible for the massacre. [32br]

6.149 According to the US Department of State Report 2003, "Separatist guerrillas were responsible for numerous, serious abuses, including killing of armed forces personnel, police, Government officials, and civilians; torture; rape; and other forms of brutality. Separatist guerrillas also were responsible for kidnapping and extortion in Jammu and Kashmir and the north eastern States. Insurgency and ethnic violence is a problem in the seven north eastern States". [2c](p2) The same report continues, "The main insurgent groups in the north east included two factions of the National Socialist Council of Nagaland (NSCN) in Nagaland; Meitei extremists in Manipur; the ULFA and the Bodo security force in Assam; and the All Tripura Tiger Force (ATTF) and the National Liberation Front of Tripura (NLFT) in Tripura. The proclaimed objective of many of these groups was secession. Their stated grievances against the Government range from charges of neglect and indifference to the widespread poverty of the region, to allegations of active discrimination against the tribal and nontribal people of the region by the central Government". [2c](p5)

6.150 According to the US Department of State report 2003, “Surrenders by militants in the north-east, often under Government incentive programmes, continued during the year. Surrendered militants usually were given a resettlement and retraining allowance and other assistance. Several hundred PWG militants surrendered during the year [2003]. In February [2003], the Home Ministry held several rounds of talks with the state government of Andhra Pradesh and a representative from the PWG group”. [2c](p5-6)

6.151 The US Department of State report 2003 cited that “In the north-central states of Bihar, Jharkhand, Orissa, and West Bengal, clashes between police officers and the PWG continued. The police sometimes responded with violence. For example, on September 8 [2003], 11 police personnel and a civilian were killed in a landmine explosion allegedly set by the PWG in Bihar. Twenty years of guerrilla-style conflict between state authorities and Naxalites led to serious human rights abuses committed by both sides”. [2c](p6)

6.152 A BBC news report of 8 September 2003 stated that a landmine explosion in Bihar killed 10 police officers and 2 civilians in September 2003. The incident took place in Rohtas district. “More than 6,000 people have died during the rebels 20 year armed struggle for a communist state in tribal areas of India”. The rebels have been accused of targeting wealthy land-owners and security forces in Bihar, India’s poorest and second-most populous state. [32bq]

6.153 According to the US Department of State Report 2003, “Killings of security force members by militants in Jammu and Kashmir declined to 38 during the year, according to the Home Ministry”. [2c](p6)

6.154 The US Department of State report 2003 reported that “Militant groups continued to attack civilians. For example, in August [2003] unknown persons killed 52 persons by detonation of a car bomb in Bombay”. [2c](p6)

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Employment Rights

6.155 According to the US Department of State report 2003, “State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an 8-hour workday, a 49-hour workweek, and minimum working conditions. These standards were generally enforced and accepted in the modern industrial sector; however, not observed in order [sic] and less economically stable industries. Minimum wages varied according to the state and to the sector of industry. Such wages provided only a minimal standard of living for a worker and were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. The state governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as the apparel and footwear industries, did not have a prescribed minimum wage in any of the states in which such industries operated.” [2c](p35-36)

6.156 According to the US Department of State report 2003, “Trade unions often exercised the right to strike, but public sector unions are required to give at least 14

days' notice prior to striking. Some states have laws requiring workers in certain nonpublic sector industries to give notice of a planned strike.” [2c](p32) The US Department of State report 2003 states that, “The law provides for the right to organize and bargain collectively. Collective bargaining is the normal means of setting wages and settling disputes in unionized plants in the organized industrial sector. Trade unions vigorously defended worker interests in this process.” “The Essential Services Maintenance Act enable the government to ban strikes in government owned enterprises and requires conciliation or arbitration in specified “essential” industries.” However, essential services never have been defined in law.. The act thus is subject to varying interpretations from state to state. State and local authorities occasionally use their power to declare strikes “illegal” and force adjudication.” [2c](p32) According to the US department of State report 2003 in “August [2004] the Supreme Court declared all strikes by government employees to be illegal; however, in practice this has not been enforced.” [2c](p33)

6.157 The US Department of State report 2003 states that “The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.” The Trade Union Act prohibits discrimination against union members and organisers, and employers are penalised if they discriminate against employees engaged in union activities. “Unions are free to affiliate with international trade union organizations.” [2c](p32)

6.158 According to the US Department of State Report 2003, “The law prohibits discrimination in the workplace, but enforcement is inadequate. In both rural and urban areas, women were paid less than men for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to women owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State governments supported micro credit programs for women that began to have an impact in many rural districts” . [2c](p27)

6.159 As cited in the US Department of State report 2003, “The Constitution prohibits forced or bonded labour, including by children; however, such practices are widespread. The Bonded Labour System (Abolition) Act prohibits all bonded labour, by adults and children. Offenders may be sentenced to up to 3 years in prison, but prosecutions were rare. Enforcement of this statute, which is the responsibility of State and local governments, varied from state to state and generally was not effective, due to inadequate resources and to societal acceptance of bonded or forced labour.” The working conditions of some children in the workplace amounted to bonded labour. Children sent from their homes to work because their parents cannot afford to feed them, or in order to pay off a debt incurred by a parent or relative, had no choice. It is estimated that in the carpet industry alone there may be as many as 300,000 children working, many under conditions that amount to bonded labour. Officials claimed that they were unable to stop this practice because the children were working with their parents’ consent. [2c](p33-35)

6.160 The US Department of State report 2003 states that “There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in “hazardous industries,” There were 13 occupations and 57

processes in which children were prohibited from working under the Act. In occupations and processes in which child labor is permitted, work by children is permissible only for 6 hours between 8 a.m. and 7 p.m., with 1 day's rest weekly." [2c](p34)

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People Trafficking

6.161 According to the US Department of State report 2003, "The law prohibits trafficking in persons, however, trafficking in persons was a significant problem...The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labour"...Over 2.3 million girls and women were believed to be working in the sex industry within the country at any given time and more than 200,000 persons were believed to be trafficked into, within, or through the country annually...Trafficking in, to, and through the country largely was controlled by organised crime." [2c](p36) The US Department of State report 2003 noted that "The Immoral Trafficking Prevention Act (ITPA), supplemented by the Penal Code, prohibits trafficking in human beings and contains severe penalties for violations. The Constitution also prohibits trafficking in persons." [2c](p37-38)

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Freedom of Movement

6.162 According to the US Department of State report 2003, "The Constitution provides for freedom of movement, and the Government generally respected this in practice. Movement generally was unhindered for citizens outside certain border areas, where, for security reasons, special permits were required. Indian citizens enjoy freedom of movement within the country except in certain border areas where, for security reasons, special permits are required." [2c](p21) The Danish Immigration Service fact finding report 2000 states that various diplomatic missions, several human rights lawyers and a former Advocate-General told the Danish Immigration Service on their fact-finding mission of 2000 that there were no restrictions on movement from one State to another. Furthermore, there were no rules that one should register in connection with a move from one State to another. [37](p48) According to the US Department of State report, "Under the Passports Act, the Government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." The Government used this provision to prohibit the foreign travel of some Government critics, especially those advocating Sikh independence and members of the separatist movement in Jammu and Kashmir." [2c] (p22)

6.163 According to the Danish Immigration Service fact finding report 2000, regarding application for a passport, a very thorough check is made by the local police to investigate an individual's status, including whether there was a case pending against him or her. However, sources indicate that it would not be impossible for a wanted person to obtain a passport on payment of a bribe, as throughout India it was very easy to obtain false documents. This applied to passports, birth certificates, certificates regarding education and career, marriage certificates and ID cards, arrest orders and

so called FIRs (First Information Reports). It was also reported that it was possible to obtain false letters from lawyers. [37](p50-52)

6.164 According to the US State Department Report 2003, “The Immigration Service, which comes under the Ministry of the Interior, is responsible for checking those leaving the country.” [37](p51)

6.165 According to the US Department of State report 2003, “The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, nor has the Government formulated a policy regarding refugees, asylees, or first asylum. UNHCR has no formal status, but the Government permitted them to assist certain groups of refugees (notably Afghans, Iranians, Somalis, Burmese, and Sudanese)...The Government also provides temporary protection to certain individuals who do not qualify as asylees or refugees...The Government provided certain assistance in refugee camps or in resettlement areas, most notable to Tibetan and Sri Lankan Tamil refugees; however this was applied inconsistently.” [2c](p22)

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6.B HUMAN RIGHTS – SPECIFIC GROUPS

Ethnic Groups

6.166 India is a mosaic of different cultures and ethnic groups, as stated in the Europa year book. [1a]

Kashmir and the Kashmiris

Historical Background

6.167 As noted in a Reuters news Service report dated 7 September 1996, the former Himalayan principality of Kashmir has been disputed by India and Pakistan since independence in 1947. It has been the cause of two of the three wars between India and Pakistan. The Indian-controlled area is the State of Jammu and Kashmir which is the only Muslim majority State in India. Pakistan controls the part known as Azad Kashmir, [8a] According to a CNN news report dated 24 May 2002, whilst China controls a barely populated slice of the territory known as Aksai Chin. [33h] According to an FCO document dated 26 April 1996, Muslims form about 95% of the population of the Kashmir Valley, while Hindus are in the majority in Jammu region (about 65%). [7c]

6.168 According to a Reuters News Service report dated 7 September 1996, on Partition in 1947, Kashmir with its largely Muslim population was expected to go to Pakistan. The Hindu ruler wanted Kashmir to stay independent but faced a revolt in the west and invasion by Pathan tribesmen from Pakistan. In October 1947 the Maharajah signed an instrument of accession to India in return for military aid and the territory became a battlefield in fighting between India and Pakistan. A cease-fire came into

effect in 1949. [8a] According to FCO correspondence dated 1996 a UN Military Observer Group (UNMOGIP) has been in place monitoring the cease-fire line (that was agreed between India and Pakistan in July 1949) ever since (redefined as the "Line of Control" after the 1971 war). [7c] As noted in the Reuters news report of 7 September 1996, two further wars in 1965 and 1971 left positions virtually unchanged. [8a]

6.169 As noted in FCO correspondence dated 1996, the status of Kashmir remained highly sensitive for both India and Pakistan; many of the Kashmir Valley's population are not reconciled to being included in India but are divided as to whether they would prefer independence or to join Pakistan. Under the peace agreement signed at Simla in July 1972, both sides agreed "to settle their differences by peaceful means through bilateral negotiations or by other peaceful means mutually agreed on between them", and they committed themselves to a final settlement of the problem. The Indians have since held that, by this agreement, Pakistan is precluded from invoking the United Nations resolutions in an effort to resolve problems with India. Pakistan does not accept this interpretation and regularly calls for a peaceful settlement "on the basis of the UN resolutions and in the spirit of the Simla Agreement". [7c]

6.170 According to a Canadian IRB report 1995, within Jammu and Kashmir, "There was growing dissatisfaction throughout the 1980s with what was seen as increased corruption in local Government and interference by central Government... This came to a head after the 1987 State elections which were widely viewed as having been rigged in favour of the Congress (I) backed Kashmir National Conference and against the Muslim United Front." Incidents of violence in Kashmir increased. The Indian army was sent into the State in large numbers after the State Government was dismissed and President's Rule was imposed in 1990. [4d](p2-3) As cited in a Reuters news service report 1996, this lasted until the 1996 State assembly elections. [8a] According to a UNHCR background paper 1998, "Following select killings of community members and widespread anarchy, almost the entire Hindu community (Pandits) of the Kashmir Valley was reported to have fled during 1989-90", as the violence increased. [6e](p8)

6.171 A BBC news report dated 11 August 2003 reported that "A key militant group in Indian-administered Kashmir, Hizbul Mujahideen, has appealed to Kashmiri Hindus who fled their homes after the start of armed conflict 13 years ago, to return home." Supreme Commander Syed Salahuddin promised full protection to the Hindus and asked for their support in the freedom struggle. This is the first time a militant group has promised to give returnees protection.[32az] A Dawn news report dated 13 August 2003 stated that at least 300,000 Kashmiri Pandits have left the strife-torn valley since a revolt against New Delhi's rule erupted in 1989.[41a]

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Political Developments in Kashmir

6.172 A Reuters news report 1996 reported that on 9 October 1996 Farooq Abdullah, chairman of the National Conference was sworn in as Chief Minister of Jammu and Kashmir. The All Parties Hurriyat (Freedom) Conference, a separatist alliance, vowed to continue the fight against the Government. [8b]

6.173 According to an Amnesty International Report 1999, under the National Conference State Government, the State police was restructured, strengthened from 38,000 to 50,000 men and prepared for a counter-insurgency role. The Special Operations Group (SOG), earlier known as the Special Task Force, was given more and better communications and transport facilities, training by security agencies and a supplement of some 12,000 Special Police Officers (SPOs) and local people, including many renegades with good local knowledge and links in the population. Police security operations against the militants became proactive, particularly after the BJP Government came to power in 1998. The new Union Government expressed a will to adopt a proactive approach to what were described as “infiltrators and Pakistani and Afghan mercenaries” carrying out the armed struggle in Jammu and Kashmir. “Security forces were called upon to initiate operations against members of armed opposition groups rather than react to attacks initiated by them.” [31] (p5-6)

6.174 According to a BBC news report dated 4 July 2003, in July 2000, the Indian cabinet rejected a demand for greater autonomy in the State. The proposal would have seen Jammu and Kashmir return to its pre-1953 status, when it had its own constitution, flag, and Prime Minister, and had control over all its affairs with the exception of finance, defence and communications. Home Minister L.K. Advani admitted that a major factor in the decision was concern that other States too would start to demand the same rights. [32p]

6.175 As cited in a BBC news report dated On 24 July 2000, the leading Kashmiri militant group, Hizbul Mujahedin announced a unilateral cease-fire and said it was willing to enter into negotiations with the Indian authorities, stating that the cease-fire would last 3 months. [32r] As noted in a BBC news report of 2 August 2000, the announcement sparked a wave of attacks by Muslim separatist militants opposed to the cease-fire. Over a period of 2 days starting 1 August 2000: 34 people died and 46 were injured in an exchange of fire between militants and Indian security forces at Pahalgam (30 of the dead were pilgrims en route to a Hindu cave shrine); 19 Hindu labourers were massacred at a brick kiln in Mir Bazar, and a further 7 others were killed in a separate attack in a nearby village; at least 22 Hindus were shot dead in the Doda region; in Baramulla a former militant and six members of his family were also shot dead. [32r]

6.176 A BBC news report dated 9 August 2000 reported that on 8 August 2000, Hizbul Mujahedin called off the cease-fire after India refused to enter three-way peace talks with the Kashmiri leadership and Pakistan. India and Pakistan blamed each other for the breakdown. [32u] A CNN news article dated 14 August 2000 stated that Hizbul Mujahedin immediately recommenced attacks in Kashmir and two days after the end of the cease-fire, set off 2 powerful bombs in Srinagar, killing 14 soldiers and journalists and wounding 25 others. Then on 13 August 2000, a string of landmine explosions and gun battles left 22 dead and 52 wounded. [33r]

6.177 According to a BBC news report dated 22 February 2001, in November 2000 the Indian Government announced a unilateral cease-fire barring Indian forces from offensive operations against Muslim separatists in Kashmir. Extensions of the cease-fire were made a month at a time, before a three month extension to the end of May 2001. Militant groups rejected the cease-fire and extensions as merely a

propaganda stunt. [32ab] As reported in the Keesings News Digest for May 2001, the cease-fire was ended on 24 May 2001 after "It was said to have demoralised the security forces without producing any real lessening of violence. Some 1,200 had died in the conflict since November 2000." [5g]

6.178 According to Keesings News Digest report of May 2002, on 21 May 2002, two gunmen shot dead moderate Kashmiri separatist leader Abdul Ghani Lone. One of Lone's bodyguards was also killed in the attack. Lone, a peaceful advocate of Kashmiri independence rather than union with Pakistan, was founder of the People's Conference Party (PCP), and a founder and former chairman of the All-Party Hurriyat Conference (APHC). [5m]

6.179 As reported in a BBC news report dated 11 October 2002, voting in Kashmir State elections concluded in October 2002. The ruling National Conference party, which supports the BJP Government in Delhi, suffered a shock defeat, as it failed to win a majority in the new assembly. The party leader, Omar Abdullah, failed to win a seat. The final results in the 87-seat assembly were: National Conference 28, Congress 20, People's Democratic Party (PDP) 16, Independents 15, and others 8. [32ak] It was reported in a BBC news report dated 17 October 2002 that 50 activists of various political parties were killed in separatist violence during the elections, the bloodiest ever held in the State. The Indian Government said that more than 40% of the voters participated in the polls, in defiance of militants who had called for a boycott. [32al]

6.180 As reported by the BBC on 3 November 2002, Mufti Mohammad Sayeed was sworn in as chief minister, to head a coalition of his PDP and the Congress party for three years, before a Congress leader takes over for a second three year period. His programme included the release of militants who have no serious charges against them, as well as a promise of financial help for relatives of separatists killed by Indian forces. [32am]

6.181 Mr Vajpayee made a surprise speech in April 2003, calling for an end to more than 18 months of simmering tensions with Pakistan, prompted by an attack on the Indian parliament, as reported by BBC on 6 January 2004. [32cj]

6.182 According to a BBC news report dated 10 August 2003, a conference of nearly 100 parliamentarians from India and Pakistan took place in August 2003 in Islamabad amid calls for all avenues for peace between the two adversaries to be explored. It was the largest gathering of elected representatives of India and Pakistan since the two countries came to the brink of all-out war in 2002. It was the first time members of some of the hard-line religious groups had agreed to sit across the table and listen to each others point of view. [32bs]

6.183 The BBC reported on 29 August 2003 that India and Pakistan had been enjoying a thaw in relations in 2003 but the atmosphere soured following the bomb attack in Bombay and violence in Kashmir. India leaders accused Pakistan of "indirect responsibility" following the Mumbai car bomb attack on 25 August 2003. Pakistan denies the accusations. [32bt]

6.184 According to a BBC news report dated 21 September 2003, Indian authorities

accused Pakistan of stepping up its efforts to push armoured infiltrators into the Indian side of the Line of Control dividing Jammu and Kashmir between the two countries. India had ruled out bilateral talks with Pakistan unless the latter stops abetting separatist violence in Indian administrated Kashmir. [32buj]

6.185 According to the US Department of State report 2003, "There were significantly fewer attacks by militants in Jammu and Kashmir during the year [2003]; however it continued at the level of the late 1990's, according to the Home Ministry." [2c](p2)

6.186 According to the US Department of State report 2003, "Tension along the Line of Control between Pakistan and Indian-held Kashmir was high during the year, and there was shelling in several sectors; however, in November, the country and Pakistan announced a ceasefire. By all accounts, the ceasefire continued at year's end." [2c](p2)

6.187 On 5 January 2004, the leaders of Pakistan and India met for the first time in 2 years, promising to restore normal relations, as reported by Guardian Unlimited.[40a]As reported by the Guardian newspaper on 7 January 2004, India and Pakistan announced peace talks over Kashmir, on 6 January 2004. [52]

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Militant/Political Groups

6.188 According an article Kashmir in Crossfire report 1996, the Jammu and Kashmir Liberation Front was one of the main militant groups operating in Kashmir, but by 1993 it had lost its "military ascendancy to the Hizbul Mujahedin," although politically it claimed to have retained the support of the majority of the people. In 1994 the JKLF leader, Yasin Malik, renounced the armed struggle and made an offer of political negotiations. This non-violent approach caused a rift with Amanullah Khan, who had continued to operate as chairman of the JKLF in absentia from Rawalpindi and Muzaffarabad. [29](p268)

6.189 As noted in Kashmir in Crisis, militant groups active in the Kashmir valley include Hizbul Mujahedin, Harkat-ul-Ansar [29](p269)(which has split into the Harkat-ul-Mujahideen and Harkat-ul-Jehad-e-Islami), Lashkar-I-Toiba [23] [5m] Lashkar-e-Toyeba and Jaish-e-Mohammad (Army of Mohammad). It remains to be seen how long these militant groups will remain powerful because many that were prominent some years ago no longer appear to wield influence today, according to a BBC news report dated 10 August 2000. [32v] It was reported by Keesings in January 2000 that, "The war of words between India and Pakistan in the aftermath of the December 1999 hijacking of an Indian airliner by Kashmiri separatists escalated" in January 2000 when Home Affairs Minister L.K.Advani claimed that the interrogation of four accomplices arrested in Bombay had revealed the identities of the hijackers, who were all Pakistani. Mr Advani claimed that the hijacking had been organised by Pakistan's Inter-Services Intelligence agency (ISI) and Harkat-ul-Mujahideen. [5r]

6.190 According to the Canadian IRB report on Human Rights in Jammu and Kashmir 1995, also active is the All Party Hurriyat Conference (APHC), formed in September 1993. This is an umbrella group of over 30 trade unions, political and religious organisations working together to separate from India. It has led strikes and protests in Jammu and Kashmir. [4d](p13) According to a BBC news report dated 8 September 2003, in September 2003 the APHC split into two factions. [32bx]

6.191 According to the US State department report Patterns of Global Terrorism May 2003, as cited in Keesings news digest 2003, four more militant organisations operating in Jammu and Kashmir have been added to their list of terrorist organisations. Hizbul Mujaheddin; Al-Badr Mujaheddin (said to be a splinter group of HM); Jamiat-ul-Mujaheddin and Harakat-ul-Jehadi-i-Islami. [5p]

6.192 As cited in a BBC news report of 8 September 2003, India accused Pakistan of arming and training the militants, while Pakistan says it provides only diplomatic support. [32bx]

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Militant violence

6.193 As stated in a human Rights Watch World report 1999, in the aftermath of India's nuclear tests in May 1998, an upsurge in shelling and shooting by Indian and Pakistani troops stationed along the Line of Control in Kashmir left over 100 civilians dead. Although India maintained that the exchanges represented a "seasonal" phenomenon, observers in Kashmir reported that the shelling was the heaviest in recent years. [26](p1)

6.194 According to Keesings News Digest for May 1999, a serious escalation of the conflict in Kashmir occurred in late May [1999] in response to the largest infiltration of Islamic militants into Jammu and Kashmir in recent years. India attacked the guerrilla positions with jet fighters and helicopter gunships on May 26. After frequent skirmishes along the Line of Control earlier in the month, a prolonged battle developed after insurgents, under cover of artillery fire from Pakistan, had launched a rocket attack on 9 May 1999 on an Indian ammunition dump near the town of Kargil in northern Kashmir. Pursuing the attackers, Indian troops discovered that at least 600 well-armed militants had occupied bunkers on a ridge overlooking Kargil. It had been reported that the infiltrators' force had been trained in camps in Azad Kashmir by Pakistan's Inter-Services Intelligence Agency (ISI). Pakistan denied that it had any control over the militants, and denied Indian allegations that some of Pakistan's own troops were fighting alongside them. [5d]

6.195 According to a Reuters news report 1999, by 11 July 1999 Pakistan had agreed on a plan, under US pressure, for the infiltrators to withdraw from Jammu and Kashmir. [8n]. As noted in a Reuters news report, July 1999, on 17 July 1999 India announced that it believed that most of the infiltrators had withdrawn from the Indian side of the Line of Control. [8o]

6.196 According to an Amnesty International news release dated 21 March 2000, on 20 March 2000, unidentified gunmen killed 36 Sikhs in the village of Chadisinghpooora. The

identity of the perpetrators was uncertain as contradictory accounts were reported from Jammu and Kashmir. The Director General of Police believed it to be the work of Muslim rebels, and the Indian Government blamed the attack on Hizbul Mujahedin and Lashkar-I-Toiba. A spokesperson of the APHC claimed that it had been carried out by the State security agencies in order to discredit the separatist movement. No attacks on members of the Sikh community in Kashmir had previously been reported. [31]

According to a BBC news report dated 23 March 2000, Farooq Abdullah [who was then Chief Minister] admitted his Government had failed in anticipating the risk that the Sikhs faced from militants active in the State. He said he would “revamp the State's security system to provide adequate protection for all minority communities in Kashmir.” [32]

According to the Independent newspaper article dated 3 November 2000 stated that Abdullah later announced a judicial inquiry into the massacre, which would also investigate the killing of five alleged militants a few days after the atrocity, who local people believed were innocent civilians who had been singled out as scapegoats. [34a]

According to a BBC news article of 16 July 2002, In July 2002, the Kashmir State authorities confirmed that DNA tests proved that the five men were local residents of Anantnag District and not foreign militants. Farooq Abdullah said he would be asking the Central Bureau of Investigation (CBI) to look into the killing of the men. [32a]

6.197 It was noted in a BBC news article dated 15 May 2000, in May 2000, Minister of Power Ghulam Hasan Bhatt was killed in a landmine explosion, claimed by Hizbul Mujahedin. It was the first time a serving minister had been killed since the start of the armed uprising. [32]

6.198 It was reported in the Independent on 26 March 2001, that on 16 January 2001 the militant group Lashkar-I-Toiba tried to storm the airport in Srinagar. In the ensuing gun battle with Indian security forces, 11 were killed and a dozen injured. [34b]

6.199 According to a BBC news article dated 5 February 2001, on 3 February 2001, a further attack was carried out on the Sikh community in Kashmir. On this occasion, six Sikhs were killed in the provincial capital Srinagar. No group claimed responsibility for the killings. One person was subsequently killed in clashes between police and Sikh protestors. [32aa]

6.200 According to a BBC news report dated 3 October 2001, on 1 October 2001, a suicide attacker detonated a Government jeep loaded with explosives outside the Kashmir State Assembly building, while at least two other militants wearing police uniforms entered the complex and took over one of the buildings there. Police said the remaining militants were killed after a gun battle lasting several hours. 38 people were killed in the attack. The Jaish-e-Mohammad militant group initially said it carried out the attack, naming the suicide bomber as a Pakistani national. However, it subsequently withdrew the claim. [32af]

6.201 Keesings News Digest December 2001 reported that a terrorist attack on the federal Parliament (the bicameral legislature) in New Delhi on 13 December 2001 left 14 people dead. The attack also precipitated a crisis with Pakistan that threatened to erupt into war, over Kashmir. India held Jaish-e-Mohammad and Lashkar-i-Toiba responsible for the attack, saying that both were supplied and trained by Pakistan's military Inter-Services Intelligence (ISI) agency. Pakistan's President General Pervaiz Musharraf immediately condemned the attack but demanded evidence that the two

groups – which both disclaimed responsibility – were involved and warned India not to take “precipitous action” against Pakistan...Both India and Pakistan put their armed forces on a state of heightened military alert and moved troop reinforcements not only up to the Line of Control (LoC) dividing the Indian and Pakistani zones of Kashmir, but also to the international border between Pakistan and the Indian north-western States of Punjab and Rajasthan. On 21 December 2001 India recalled its High Commissioner to Pakistan, and announced that from 1 January 2002, it would cut the only land transport links between the two countries. In a further escalation of pressure, India on 27 December 2001 announced the halving of the strengths of both countries’ diplomatic missions and a ban on Pakistan Airlines from flying over India, measures which Pakistan reciprocated. [51]

Recent militant violence

6.202 As noted in Keesings record of World events May 2002, “India and Pakistan moved closer to outright war in May [2002] over the deteriorating situation” in Kashmir. Up to a million troops had faced each other across both the Line of Control and the international frontier between the two countries.” Then on 14 May 2002, 34 people were killed in an attack by militants on Kaluchak army base in Kashmir. The dead included 8 women and 11 children from army families. The three militants themselves were shot dead by Indian troops. “A hitherto unknown militant group called Al-Mansoorien claimed responsibility for the attack, but Indian officials said that this could be a cover name for either Lashkar-i-Toiba or Jaish-e-Mohammad.” Meanwhile, exchanges of artillery shelling and small arms fire across the Line of Control intensified, causing dozens of deaths, mostly among civilians in border villages. Both the U.K. Foreign and Commonwealth Office and the U.S. State Department on 31 May 2002 issued unprecedented advice to their respective 20,000 and 60,000 citizens living in India to leave the country. They also advised people to cancel plans to travel to India. [5m]

6.203 As cited in Keesings News Digest June 2002, “Tension on the border between India and Pakistan, especially on the Line of Control was lowered during June [2002], largely as a result of international pressure...” Pakistan’s President General Pervez Musharraf had ordered that all infiltration of separatist militants across the Line of Control should cease. India had opened its airspace to civilian Pakistani aircraft, and announced the appointment of a new High Commissioner to Pakistan. [5n]

6.204 According to a BBC news report dated 26 March 2003, in March 2003, gunmen dressed in army uniforms killed 24 Kashmiri Hindus in the village of Nadimarg. [32as] As noted in Keesings news digest April 2003, On 10 April 2003 the police said they had arrested Zia Mustafa, a local commander of the Islamic militant group Lashkar -I-Toiba in connection with the massacre. However it was reported by the Daily Excelsior on 12 April 2003, that Lashkar-I-toiba denied all responsibility for the Nadimarg killings. [5o]

6.205 As reported in Keesings new digest April 2003, in two incidents on April 21-22 2003 security forces killed 18 militants infiltrating into the Poonch district south-west of Srinagar following the loss of one soldier. Five people were killed on 22 April 2003 in the village of Gulshanpora when a civilian vehicle was blown up in a landmine

attack. Official sources claimed that 13 foreign militants and six soldiers were killed during a gun battle in the Doda district of Jammu on 29 April 2003. At least 53 people were killed during April 2003 in Kashmir in other incidents of separatist related violence, including at least eight civilians.[50]

6.206 According to Keesings News Digest April 2003, on 18 April 2003 Prime Minister Atal Bihari Vajpayee made an offer of dialogue with Pakistan during a visit to Srinagar, the summer capital of the northern state of Jammu and Kashmir. Vajpayee stated that “open dialogue” was the only way to bring peace to Kashmir. [50]

6.207 According to Keesings news digest May 2003, there was no let-up in separatist violence in Kashmir during June 2003. In the single most bloody incident two militants attacked an army camp at Sunjwan, 10km south of Jammu on 28 June 2003, killing 12 soldiers. In incidents on 22-23 June, 11 civilians and five militants were killed including 2 civilians and 36 wounded in grenade attacks in Srinagar. On June 20 2003, 30 civilians were injured in grenade attacks. It was also claimed by the police that militants had killed at least 2 civilians by a new method of poisoned injections.[50]

6.208 As reported in BBC news dated 17 September 2003, police in Indian administered Kashmir claimed to have killed one of the most senior members of the Jaish-e-Mohammad militant group, Nasir Mehmood Ahwan, alias Ansar. However a Jaish-e-Mohammad spokesman claimed that it was not Ansar. His leader Ghazi Baba was shot dead by Indian Security forces on 30 August 2003. His death “Sparked an upsurge in violence that has left more than 200 people dead in the state.” The police chief of Indian Kashmir stated that the security forces had stepped up their offensive against the militants. [32b]

6.209 According to a BBC news report dated 21 September 2003, the Line of Control saw an increase in exchanges of fire between the Indian and Pakistan armies in September 2003.[32b] As reported in the US Department of State report 2003, “Tension along the Line of Control between Pakistan and Indian-held Kashmir was high during the year, and there was shelling in several sectors; however, in November [2003], the country and Pakistan announced a ceasefire. By all accounts, the ceasefire continued at year’s end.”[2c](p2)

6.210 According to a BBC news article dated 29 December 2003 it was reported that “There had been a substantial decline in violence in Indian-administered Kashmir since Pakistan and India began a cease-fire, the Indian authorities say.”[32c] According to the US Department of State report 2003, “There were significantly fewer attacks by militants in Jammu and Kashmir during the year...According to the Home Ministry security forces killed 1,526 militants during 2003, compared with 1,747 militants killed during the same period in 2002.”[2c](p2)

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Human Rights Concerns in Kashmir: Summary

6.211 According to an Amnesty International report February 1999, “Human rights violations, including arbitrary arrests, torture leading to hundreds of deaths in custody,

and extra-judicial executions perpetrated by State police and armed and paramilitary forces, soared in the early 1990s. Armed opposition groups were reported to have taken hundreds of civilians hostage and to have tortured and killed hundreds of unarmed civilians.” [37](p5)

6.212 The Amnesty International report 1999 states that reliable figures of the number of deaths in Jammu and Kashmir as a result of the conflict are impossible to obtain. But according to official reports and figures obtained in September 1998, 19,866 people had died in Jammu and Kashmir since January 1990. This included 9,123 members of armed opposition groups; 6,673 victims of armed opposition groups; 2,477 civilians killed by Indian security forces and 1,593 security personnel. These figures do not reflect the number of victims who were deliberately or arbitrarily killed or died as the result of torture inflicted in the custody of State agents. [37](p7)

6.213 The U.S. State Department Report on Human Rights Practices for 2003, issued in March sets out concerns relating to human rights abuses by the security forces in Jammu and Kashmir. “Arbitrary and unlawful deprivations of life by government forces (including deaths in custody and faked “encounter” killings) continued to occur frequently in the State of Jammu and Kashmir and in several northeastern states, where separatist insurgencies continued...Extrajudicial killings of criminals and suspected criminals by police or prison officers also occurred in a number of states. Militant groups active in Jammu and Kashmir, several northeast states, and parts of Andhra Pradesh, killed member of rival factions, government security forces, government officials and civilians.” [2c](p2)

6.214 According to US Department of state report 2003, “Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, several hundred persons were held by the military and paramilitary forces in long term unacknowledged detention in interrogation centers and transit camps that nominally were intended only for short term confinement.” [2c](p7)

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Disappearances

6.215 According to a United Nations report dated January 1998, There have also been disappearances, most of which occurred between 1983 and 1995. They were attributable to the police authorities, the army and paramilitary groups acting in conjunction with, or with the acquiescence of, the armed forces. In Kashmir numerous people are said to have disappeared after “shoot outs” with security forces. [6d](p38) As reported in an Amnesty International report 1999, abduction and hostage taking of unarmed civilians has also been used by armed opposition groups to seek to free arrested associates or to frighten or harass the population. Amnesty International report that the victims of disappearance belong to all ages, including children and juveniles, and all professions and most appear to be ordinary civilians who have no connections with armed opposition groups operating in Jammu and Kashmir. [37](p3)

6.216 As reported by the UN in 1998, the fate of the victim remains unknown in many cases. Investigations into cases of disappearances were rarely carried out and when they were, they were usually conducted by police or army officials rather than by an

independent body. Police often failed to register detentions or file arrest warrants, and they were then able to deny holding a detainee. [6d](p39)

6.217 Amnesty International reported that during 1998 there were fewer disappearances in Jammu and Kashmir than in previous years, but many of the early cases remain unresolved. Amnesty also reported that no effective measures had been taken to end disappearances and to investigate the fate of hundreds of people who had disappeared, including the more than 100 cases submitted by Amnesty in its 1993 report. [3f](p32-33)

6.218 According to the US Department of State report 2003, it was reported that in an AI report released in 2000, there have been between 700-800 unsolved disappearances in Kashmir since 1990. In June, the Jammu and Kashmir state government announced that 3,931 persons remained missing in the state since 1990. However the Association of Parents of Disappeared Persons, puts the figure in excess of 8,000. In April, the Jammu and Kashmir judiciary established that 500 accounted for disappearances in custody. [2c](p7)

6.219 As reported by the US department of State in 2003, "According to AI, in May [2003], the NHRC asked the Chief Secretary of Jammu and Kashmir for specific information on the systems used by the state government to record and investigate allegations of enforced or involuntary disappearances. In addition, the commission requested the number of such allegations recorded and the measures taken to prevent their occurrence. It recommended compensations relief for 719 persons who disappeared, and relief was paid for 61." [2c](p7)

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Special Security Laws

6.220 According to the US Department of State report 2003, the authorities in Jammu and Kashmir have special powers to search and arrest without a warrant. [2c](p14)

6.221 As noted in the US Department of State report 2003, "The Armed Forces (Jammu and Kashmir) special Powers Act of 1990 provides that unless approval is obtained from the central Government, no "prosecution, suit, or other legal proceeding shall be instituted...against any person in respect of anything done or purported to be done in exercise of the powers of the act." This provision allowed the security forces to act with virtual impunity." [2c](p9)

6.222 According to US Department of State report 2003, "Authorities in Jammu and Kashmir continued to keep in detention persons who had been arrested under TADA in the past, despite the fact that the Act lapsed in 1995. In February, the Jammu and Kashmir state Supreme Court overturned the controversial ruling of a TADA court that had acquitted three militants in the murder of Kashmiri Pandit human rights activist H.N. Wanchoo in 1992. Human rights activists estimated that 351 persons remained in custody under the TADA at year's end. In 2002, the Jammu and Kashmir governments established a committee to review detainees' cases and by year's end, the committee released approximately 17 persons. TADA courts used abridged procedures. For example, defense counsel was not permitted to see

witnesses for the prosecution, who were kept behind screens while testifying in court. Also, confessions extracted under duress were admissible as evidence.” [2c](p11)

6.223 According to the US Department of State Report 2003, “Under the Jammu and Kashmir Disturbed Areas Act, and the Armed Forces (Jammu and Kashmir) Special Powers Act, security force personnel enjoyed extraordinary powers, including authority to shoot on sight suspected lawbreakers, and to destroy structures suspected of harboring militants or arms.” [2c](p14)

6.224 According to the US Department of State Report 2003, “The PSA, a law that applies only in Jammu and Kashmir, permits the detention of persons without charge and without judicial review for up to 2 years. In addition, detainees do not have access to family members or legal counsel. The Government estimated that approximately 514 persons remained in custody under PSA or related charges at year's end, and 412 were in police custody under other charges. In June, 92 prisoners detained under the PSA were released. In February, the Government released Syed Ali Shah Geelani, who had been detained under the PSA and the Officials Secrets Act, since June 2002. Geelani's two sons-in-law, also arrested in June 2002, were released during the year.” [2c](p12)

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Police and Security Force Impunity

6.225 According to the US Department of State report for 2003. “Accountability remained a serious problem in Jammu and Kashmir. Security forces committed thousands of serious human rights violations over the course of the 14 year conflict, including extra-judicial killings, disappearances, and torture. Despite this record of abuse, only a few hundred members of the security forces have been prosecuted and punished since 1990 for human rights violations or other crimes. Punishments ranged from reduction in rank to imprisonment for up to 10 years.” [2c](p3)

6.226 The US Department of State reported in 2003, “Government forces committed numerous serious violations of humanitarian law in the State of Jammu and Kashmir. Between 400,000 and 700,000 army and paramilitary forces were deployed in Jammu and Kashmir, although the Government did not release official figures. The population in the Kashmir Valley suffered disproportionately from the anti-insurgency campaign of the security forces. Under the Jammu and Kashmir Disturbed Areas Act, and the Armed Forces (Jammu and Kashmir) Special Powers Act, security force personnel enjoyed extraordinary powers, including authority to shoot on sight suspected lawbreakers, and to destroy structures suspected of harboring militants or arms ...The security forces continued to abduct and kill suspected terrorists, but were not adequately held accountable for their actions. Many army officers' inclination not to participate in such practices led to a reduced number of cases, and, as a result, government-supported countermilitants often committed these abuses.” [2c](p14)

6.227 According to a BBC news report dated 4 October 2000, in October 2000 the Indian army sentenced one of its officers (whose rank was captain) to 7 years imprisonment for raping a young girl in a village in the Doda district. The case marked a rare departure for the army, both in terms of making the case public and in taking such severe action. [32x]

6.228 As reported in a BBC news report dated 20 March 2003, in April 2003 that three members of India's elite National Security Guards (NSG) were to face charges in connection with the disappearance of a Kashmiri civilian in 1990, in the first incident of its kind in Kashmir. [32ar]

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Detention

6.229 According to the US Department of State report 2003, "Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, several hundred persons were held by the military and paramilitary forces in long-term unacknowledged detention in interrogation centres and transit camps that nominally were intended only for short-term confinement. Human rights groups feared that many of these unacknowledged prisoners are subject to torture and extra-judicial killing." [2c](p7)

6.230 According to the US Department of State report 2003, "The Government maintained that screening committees administered by the state governments provided information about detainees to their families. However, other sources indicate that families are able to confirm the detention of their relatives only by bribing prison guards. In November 2002 the State Government of Jammu and Kashmir responded to this problem by installing a screening system to review old detention cases and released numerous detainees... In June [2003] 92 persons were released under the state's 1978 Public Safety Act." [2c](p7)

6.231 As noted in the US Department of State report 2003, "A program of prison visits by the ICRC was designed in part to help assure communications between detainees and their families. According to the Home Ministry's annual report, the ICRC visited 53 detention centers and over 7 thousand detainees during the year, including all acknowledged detention centers in Jammu and Kashmir, and Kashmiris held elsewhere in the country... During the year [2003]. The ICRC stated that it continued to encounter difficulties in maintaining systematic access to people detained in Jammu and Kashmir." [2c](p12)

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Ineffective Judiciary

6.232 According to the US Department of State report 2003, "In Jammu and Kashmir, the judicial system barely functioned due to threats by militants against judges, witnesses, and their family members; because of judicial tolerance of the Government's heavy-handed anti-militant actions; and because of the frequent refusal by security forces to obey court orders. Jammu and Kashmir were reluctant to hear cases involving terrorist crimes and failed to act expeditiously on habeas corpus cases, if they acted at all. There were a few convictions of alleged terrorists

in the Jammu High Court during the year; many more accused militants had been in pre-trial detention for years. The number of militants in pre-trial detention is in the hundreds; however, the exact number is unknown. During the year, the Government announced plans to release 274 such detainees, as a result of court orders. By year's end, only 24 militants had been released under instructions of the government-appointed Review Committee.” [2c](p13)

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State Human Rights Commission

6.233 As reported by BBC monitoring service on 2 May 1997, the Jammu and Kashmir Protection of Human Rights Act 1997 established a State Human Rights Commission and human rights courts. The Commission is empowered to enquire into any complaint of a violation of human rights presented to it by a victim or any person on his/her behalf. It can also intervene in any proceeding involving any allegation or violation of human rights pending before a court with the approval of the court. [10b]

6.234 The same report continues, the Commission may also visit any jail or detention centre. It can also review human rights legislation and recommend measures for its effective implementation. [10b]

6.235 According to the US Department of State report 2003, the NHRC may ask for a report from a state government, but does not have the statutory power to investigate such allegations. [2c](p3)

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Women

Overview

6.236 According to the July 2002 estimates as cited in the CIA World Factbook 2002, out of a population of 1,045 million, 506 million are female and 539 million are male. [35](p3) As reported in the US Department of State report 2001, higher female mortality at all age levels, including female infanticide and sex selective termination of pregnancies, accounts for the higher ratio of males to females. [2a] (p29) According to the US Department of State report 2003, “The traditional preference for male children continued. The law prohibits the use of amniocentesis and sonogram tests for sex determination, however, despite an order from the Supreme Court during the year, the Government did not effectively enforce the law. The tests were misused widely for sex determination, and termination of a disproportionate number of pregnancies with female fetuses occurred. During the year [2003], the Government passed a bill in Parliament which fined any persons \$1,000 (50,000 Rs) if they perform a sex selection procedure. Women’s rights groups pointed out that the burden of providing girls with an adequate dowry was one factor that made daughters less desirable.” “In Tamil Nadu, three persons were sentenced to life imprisonment for killing a newborn girl.” [2c](p29) “Tamil Nadu implemented a “cradle scheme” in 1992 whereby unwanted infants could be left outside the Social Welfare Department.” [2c](p29)

6.237 An independent report commissioned by the UN, titled Women in India, how free, how equal 2001, states that “Only 50% of Indian women are literate as compared to 65.5 men.” [50](p8) The UN commissioned report of 2001, states that “According to the National Sample Survey in 1997, female literacy rates have gone up to 50 %.” In the past 50 years it has increased fivefold however despite this progress, close to 245 million Indian women lack the basic capability to read and write. Female literacy levels vary dramatically between States, only Kerala and Mizoram have approached universal literacy. In Orissa, Rajasthan and Bihar, less than 40% of adult women know how to read and write. [50](p43) According to the US Department of State report on Human rights practices 2001, (the 2000 U.N. Development Programme Report for India found that 38% of women were literate, compared with 66% of men) [2a](p30), and according to a Canadian IRB report of 1995, the caste system as well as economic circumstances have an impact on the position of women. Scheduled caste women face double discrimination because of their gender and caste. Poverty has a disproportionate effect on women. [4e]

6.238 According to UNHCR Human Rights brief 1995, India has ratified a number of international conventions, including the Convention on the Political Rights of Women and the Convention on the Elimination of All Forms of Discrimination against Women. One reservation was made in respect of the latter convention, in that the Indian Government declared that it would not interfere in the personal affairs of any community without that community's initiative or consent. This has been interpreted as reluctance on the part of the Government to change the religion-specific personal laws that discriminate against women in areas such as marriage, divorce and inheritance. [4e](p3)

6.239 According to a Canadian IRB report 1995, the Indian Constitution provides that all persons are equal before the law and shall have equal protection of the law. Women who are subject to violence have recourse through the civil and criminal courts. A civil suit for injunctive relief can be undertaken under the civil Procedure Code and the Special Relief Act. In criminal law a victim of violence can seek redress under several sections of the Penal Code.[4e]

Legislation

6.240 As cited in the AI report India: The battle against fear and discrimination, “The central government and state government have taken several steps to protect woman [sic] through enactment of legislation and to prosecute those who perpetrate violence against them. The Indian Penal Code (IPC) has been amended several times in relation to crimes against women largely as a result of campaigns against violence led by the womens’ movement in the country.” [31](p13)

6.241 According to the US Department of State report 2003, “Numerous laws exist to protect women’s rights, including the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Widow Burning) Prevention Act, and the Dowry Prohibition Act. However the Government often was unable to enforce these laws, especially in rural areas in which traditions were deeply rooted.” [2c](p27)

6.242 As noted in the report *Women in India: How Free, How Equal?* 2001, “In response to years of sustained legal activism by the women’s movement, the Supreme Court has begun to apply equality principles to address issues of violence against women. Apart from the landmark ruling on sexual harassment in the workplace in 1997, judgements have also begun to apply international conventions like CEDAW and the Convention on Human Rights. Following the declaration of 2001 as the “Year of Women’s Empowerment”, the Government of India has announced that more stringent civil legislation will be enacted to combat violence against women. The proposed bill will give women victims the rights to protection, relief and custody of their children.” [50](p76-77)

Marriage

6.243 According to a World Bank document, *Terror as a Bargaining Instrument: A Case study of Dowry violence in rural India*, 2002, “In India marriage is almost never a matter of choice for women, but is driven almost entirely by social norms and parental preferences.” [55](p1)

6.244 As cited in UNHCR’s Human rights report 1995, *The Child Marriage Restraint (Amendment) Act 1976* makes 18 the minimum age of marriage for women, but enforcement is uneven. Child marriages are said to be common, particularly in rural areas. [4e](p14)

6.245 According to the UNHCR Human Rights report 1995, the personal status laws of the religious communities govern matters such as marriage, divorce and property. The Hindu Marriage Act 1955 gives the parties the right to dissolve the marriage according to their custom. Under the Indian Divorce Act 1969, a Christian woman may petition the court for divorce on one or more of several grounds, including bigamy and rape. [4e](p9) According to the US Department of State report 2001, in 1997 the Mumbai High Court recognised abuse alone as sufficient grounds for a Christian woman to obtain a divorce. Under Islamic law, a Muslim husband may divorce his wife spontaneously and unilaterally; there is no such provision for women. [2a](p30) According to UNHCR Human Rights report 1995, the divorce law applying to secular marriages is included in the Special Marriage Act 1954 and provides for divorce by mutual consent as well as by petition to the court. [4e](p9) Despite legal provisions, divorce is socially unacceptable for women. A divorced woman may be ostracised by her community and even her family. Divorce may not be an option for many women because of their economic dependence on their husbands. [4e](p9)

6.246 According to the US Department of State report 2003, “The Government continued to review legislation on marriage; it passed the Indian Divorce (Amendment) Act during 2001 the act widely had been criticized as biased against women. The Act placed limitations on interfaith marriages and specified penalties, such as 10 years’ imprisonment, for clergymen who contravened its provisions”. [2c](p27)

6.247 According to the US Department of State report 2001, “The Hindu Succession Act provides equal inheritance rights for Hindu women, but married daughters are seldom given a share in parental property. Islamic law recognises a woman’s right of

inheritance but specifies that a daughter's share should only be half that of a son.”[2a](p30)

6.248 According to the US Department of State report 2003, “Under many tribal land systems, notably in Bihar, tribal women do not have the right to own land. Other laws relating to the ownership of assets and land accorded women little control over land use, retention or sale. However, several exceptions exist, as in Ladakh and Meghalaya, where women may have several husbands and control the family inheritance.” [2c](p27) According to a BBC news report dated 24 June 2003, in Meghalaya, women run family businesses, dominate the households and take all key family decisions. However according to a Meghalaya based NGO – North East Network, patriarchal values are gaining ground. Domestic violence against women in Meghalaya was increasing, the number of cases of rape and sexual abuse against women have also been rising.[32ba]

6.249 It was reported on 16 September 2003 by the BBC that India faces a key marriage ruling after a landmark ruling in the Calcutta High Court. An Indian man planned to appeal after the court ruled that he has no right to force his wife to live with his family. Two judges ruled that his wife should live with him but separately from her in-laws. When her husband refused to move out she sued him in a lower court, with the request that he be legally compelled to stay with her. When the lower court turned down her request, she took the case to the High Court. They ruled that a wife had the right to live separately with her husband, and could refuse to live with his parents and relatives. Legal experts say this judgement could have a huge impact on conjugal relations in India's male-dominated society and if not overturned by the Supreme Court, could be used as case-law.[32bw]

6.250 As noted in the US Department of State report 2003, “The Government continued to review legislation on marriage; it passed the Indian Divorce (amendment) Act during 2001; the act widely had been criticized as biased against women.”[2c](p27)

Domestic Violence

6.251 As noted in The Battle against fear and discrimination report, violence within the home is widespread in both Uttar Pradesh and Rajasthan and affects women throughout society. It is apparent in both wealthy urban households and the poorest rural households cutting across all religious, class and caste boundaries. Offences include beating, slapping, Kicking, rape and even murder, often by burning.[31](p5-6) According to the US Department of State report 2003, “Domestic violence was common and a serious problem. In a survey by the National Family Health Survey released in 2002, 56 percent of the women said that domestic violence was justified. These sentiments led to underreporting and, combined with ineffective prosecution made progress against domestic violence difficult.” [2c](p25)

6.252 According to Women In India; how free, how equal? 2001, “The common perception of domestic violence as a “private” issue is also changing. According to a survey conducted by the Times of India in Bangalore, where 250 women and men were interviewed, 81% considered domestic violence to be a serious problem and defined it as verbal and physical abuse, sexual harassment and mental torture. The overwhelming majority of respondents felt that legal actions was justified in cases of domestic violence.”[50](p77)

Dowry

6.253 As reported by the BBC on 16 July 2003, dowries and the problems associated with them have meant that many Indian families are desperate to avoid having girls. Legislation against sex determination tests was passed nearly a decade ago, but the practice is still widespread. Pre-natal Diagnostics Techniques (Regulation and Prevention of Misuse) 1994 (amended 2002) bans sex determination tests. [32bb]

6.254 According to the US Department of State report 2003, "Dowry disputes also were a serious problem. Although providing or taking dowry is illegal under the Dowry Prohibition Act, dowry was practised widely. In the typical dowry dispute, a groom's family members harassed a new wife whom they believed had not provided a sufficient dowry. This harassment sometimes ended in the woman's death, which family members often tried to portray as a suicide or accident. According to NGO's approximately 7,000 deaths each year in the country are from dowry-related burnings. Although most dowry deaths involved lower and middle-class families, the phenomenon crossed both caste and religious lines...In August [2003], the Government announced that defendants under the Anti-dowry Act would be able to be released on bail...Under the Penal Code, courts must presume the husband or the wife's in-laws are responsible for every unnatural death of a woman in the first 7 years of marriage, provided that harassment is proven." [2c](p26) As reported by the BBC news Service on 1 June 2000, if convicted, prison sentences can stretch to 14 years. [32i]

6.255 According to a BBC news article dated 16 July 2003, this type of murder is often referred to as "bride burning" in India. Payment and acceptance of a dowry has been illegal in India for 40 years but is still widely practised. Dowry Prohibition Act 1961 (amended in 1984 and 1986) bans paying and receiving dowries. [32bb] As reported by the BBC on 16 July 2003, in 2003 a prospective bride from Noida just outside Delhi had her groom arrested after he demanded a dowry, the groom and his mother were arrested under the rarely enforced 1961 Anti-Dowry Act, both were awaiting trial. [32bb] According to a BBC news item dated 8 October 2003, Nisha Sharma became an instant celebrity as politicians and non-government organisations honoured her for her boldness in calling the police. [32cb] According to the US Department of State report 2003, in the case of Nisha Sharma, the potential groom was detained for 14 days while formal charges were filed for violating the country's laws against dowries. [2c](p26)

6.256 According to the US Department of State Report 2003, "Women usually at a disadvantage in dowry disputes, began to speak out against dowry demands." [2c](p26) According to a BBC news report dated 28 November 2003 "Thousands of people in the southern Indian city of Bangalore have staged a march and rally against the system of dowry." The Karnataka State Women's commission (KSWC) organised the rally, apparently the women were joined by many men. [32cd]

6.257 It was reported by the BBC in an article dated 14 November 2003 that India's illegal dowry system was still thriving, leaving women vulnerable to abuse. The Crime Women Cell is a women's crime unit in south Delhi set up to protect women in a male dominated society. "The police unit has been given new powers to arrest and detain suspects... Despite the corruption and bureaucracy, hundreds are convicted of dowry

crime every year... Crimes against women have soared in the last 10 years with many more being committed than are recorded, these are serious crimes. The head of the Crime Women Cell stated that dowry was the main problem, with increasing numbers of women going to the unit.” [32c]h]

Gender Discrimination

6.258 AI further report that gender discrimination is a problem within many communities, caste and land rights impact on political, social and economic relationships. In Uttar Pradesh political parties representing dalit and lower-caste communities have played a role in empowering some of these groups in some areas.[31](p6) Despite many positive developments in securing women’s human rights, patriarchy continues to be embedded in the social system in many parts of India.[31](p5)

Societal violence

6.259 According to the US State Department report 2003, “The press consistently reported that violence against women was increasing, although local women’s organizations claimed that there simply had been increased reporting. Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, thus fostering a climate of impunity.”[2c](p26)

6.260 The US Department of State report 2003 stated that “Societal violence against women was a serious problem. In January [2003], the National Commission for Women reported that it was dissatisfied with the Gujarat government’s handling of rape cases stemming from the 2002 riots noting that there were no convictions during the year.”[2c](p26)

6.261 According to a BBC report dated 16 April 2002, it was reported by a woman’s panel visiting Gujarat, that Muslim women were subjected to sexual violence during the communal riots of 2002. The panel reported that many women suffered the worst forms of sexual violence, including gang-rape. They allege that the police refused to file complaints by the victims. [32bc] The National Human Right Commission reported in October 2003, that it has extended legal assistance to a victim of alleged mass rape at Limkheida in Dahod District, Gujarat during the post Godhra communal disturbances. The Commission decided to assist the applicant to pursue legal remedies in her case and indicated it could offer financial assistance to her. The Supreme Court admitted a Writ Petition on her behalf, issuing notice to the Gujarat Government and the Dahod Police administration. [47]

6.262 According to an Amnesty International report 2003, India, Break the cycle of impunity and torture in Punjab, “There has been an overall increase in crimes against women recorded in Punjab in the post militancy period, particularly in the context of matrimonial disputes, in response, the police in Punjab have created “women cells” at district level to deal specifically with offences against women. However, these units reportedly lack staffing and other resources such as means of transport.” [51](p24)

6.263 Amnesty International stated in The battle against fear and discrimination report “Crimes against Women Cells have also been criticised for not responding

appropriately or effectively to cases of violence against women although the majority of crimes referred to these cells relate to violence within the family.” [31](p18)

Rape

6.264 According to the US Department of State report 2003, “The issue of rape received increased political and social attention during the year [2003]. The majority of rapes are never reported to the authorities. The Home Ministry reported in February [2003] that there was a 16.5 percent increase in reported rape cases as compared to 2000.” [2c](p25)

AI reported in The Battle against Fear and discrimination report that many women victims in India do not report a complaint to the police because they fear it will be dismissed or they will suffer further abuse. Activists told AI in Uttar Pradesh and Rajasthan in December 2002 that the majority of cases were not reported for fear of reprisals and bringing dishonour. Most women will only visit a police station if accompanied by a male relative. As a means of encouraging women to register complaints to the police, Mahila thanas (women’s police) stations were established in many states. [31](p17-18)

6.265 According to an Amnesty International report 2003, India, Break the cycle of impunity and torture in Punjab, “Women are particularly vulnerable to police abuse. Rape and other forms of sexual harassment are reported to be frequent forms of torture in police custody.” [51](p24)

6.266 Women are vulnerable to attack and rape while in custody. Amnesty International expressed concern about the lack of official determination to bring the perpetrators of custodial crimes to justice. [4e] It is noted in the US Department of State Report 2003, published in February 2004 that limits placed on the arrest, search, and police custody of women appeared effectively to limit the frequency of rape in custody. [2c](p9)

6.267 As noted in a Penal reform International report 2003, counselling units are now being operated by PRAJA in women’s prisons across Andhra Pradesh. They counsel women and in addition provide legal and social awareness training to the women on the premises. This was one of the recommendations in the PRAJA/PRI report on a mental health and care project for women and children imprisoned in Andhra Pradesh, published in October 2001. The report convinced the State’s Prisons Department of the need for counselling units and resource centres in women’s prisons. [53](p4)

6.268 According to a BBC news article dated 19 December 2003 Delhi is to set up special courts to hear rape cases that will be prosecuted and judged by women. “The city’s police argue that courts dedicated to crimes against women can deliver justice faster. There were over 300 cases of rape filed last year in Delhi. Women’s rights activists say the social stigma attached to victims prevents many coming forward with complaints.” Even fewer take their alleged attackers to court. “The new move will add to the three current special courts in the capital in which women judges deal with sexual harassment and dowry related offences... The minimum punishment for rape is seven years and a section of society is now demanding the death penalty for rapists.” [32ce]

6.269 According to Women In India: how free, how equal 2001, "The India constitution guarantees to all Indians the right to bodily integrity, personal safety and security. The last ten years have seen a much greater sensitivity within the police and justice systems to the issue of violence against women, and sustained campaigning by women's groups has led to stringent legislation to protect women from bodily harm. Yet the violence against women appears to be a "high growth sector"...The rise in reported crimes has occasionally been interpreted as a positive development, showing that more and more women are "breaking the silence" and an increasingly gender-sensitive police force is recording their complaints with sympathy and efficiency." [50](p71)

6.270 According to Amnesty International's report, The battle against fear and discrimination, attempts by women to seek justice through the criminal justice system are regularly forestalled...Unless supported by male relatives or a strong social group, women victims of crime are at a severe disadvantage within the criminal justice system. Threats and harassment by perpetrators and their communities and social pressures which exist within families and communities force them towards compromise or withdrawal rather than pursuing justice. Gender biases which exist within institutions of redress are often exacerbated by ingrained caste and other biases against members of disadvantaged communities." [31](P16-17)

6.271 It was reported in a UNHCR Human Rights brief of September 1995 that one women's organisation, Sakshi, had provided gender sensitisation training to police officers. [4e]

Women in Politics

6.272 According to the US Department of State report 2003, "There were 73 women in the 783 seat legislature. There were 7 women in the Cabinet of Ministers. A large proportion of women participate in voting throughout the country (with turnout rates slightly lower than those of men), and numerous women are represented in all major parties in the national and State legislatures. The passage of the "Panchayati Raj" constitutional amendments reserved 30 percent of seats in elected village councils (Panchayats) for women, which brought more than 1 million women into political life at the grassroots level. [2c](p24) India Today reported in July 1998 that there had been a prolonged debate over the reservation of parliamentary and State assembly seats for women. In recent years Indian Governments have pledged to introduce legislation which would guarantee that at least 33% of MPs would be women. [11b] As reported by the BBC on 7 March 2003, a Bill has twice been introduced into Parliament, but has yet to be passed. By March 2003, a consensus had still not been reached among political parties discussing the issue. [32aq]

6.273 According to Keesings Record of World Events for May 2003, the Women's reservation Bill, which sought to reserve one third of seats in the Lok Sabha for women was again effectively stalled on 6 May 2003 after male legislators opposed to it, engineered a disruption in the Lok Sabha. The speaker of the house adjourned the discussion of the bill, effectively ensuring its deferral. Although the BJP and the main opposition Congress(I) were united in support of the bill some parties in the ruling National Democratic Alliance and other opposition parties were determined to thwart its progress. Only 10 percent of MPs were women as at 2003.[5p]

6.274 According to the US Department of State report 2003, "In December [2003], the Jammu and Kashmir State Legislative Assembly passed legislation that reserved 33 percent of its seats for women." [2c](p27)

6.275 As reported in a BBC news article dated 20 November 2003, women are on the rise in Indian elections. High profile female candidates were fighting pitched battles in at least 3 of the four states in key state elections in December 2003. Delhi had 77 female candidates, an increase from 58 in the last elections, Congress party fielded 40 women candidates in Madhya Pradesh. The total number of women candidates was less than 10 % of the total contestants. A study conducted by the Delhi based Centre for Social Research showed the winning percentage of women candidates to be much higher than their male counterparts. The study was based on an analysis of the last five general elections since 1972. Analysts say a slow but definite change is emerging in people's perception of women politicians." [32c1]

6.276 A BBC news report dated 8 December 2003 further states that analysts point out that while India has seen a number of women leaders, they have not overseen any remarkable change in the status of women in Indian society. "The two main national parties, the BJP and Congress, have always advocated strong support for reserving a third of seats for women in national and state parliaments. But these attempts have failed and the national parliament percentage for women stands at only 17. The federal cabinet has less than 10% women." [32c9]

Sexual Harassment in the work place

6.277 The US Department of State report 2003, notes that "The law prohibits discrimination in the workplace, but enforcement was inadequate. In both rural and urban areas, women were paid less than men for the same job...State governments supported micro credit programs for women that began to have an impact in many rural districts." [2c](p27)

6.278 According to the US Department of State report 2003, "Sexual harassment was common, with a vast majority of cases unreported to authorities. Sexual harassment of women in the workplace became a subject of NHRC consideration during the year [2003]. The NHRC instituted a committee to investigate harassment of women in the legal profession and asked universities to establish complaint committees immediately. The commission suggested the creation of a telephone hot line for complaints, initially starting in New Delhi, and gave advice to the media on reporting incidents of harassment against women." [2c](p27)

6.279 As cited in the US Department of State report 2003, "During the year [2003], women joined the National Security Guard for the first time as a result of an internal change in policy which had previously prohibited women from this organization." [2c](p27)

Organisations offering assistance to women

6.280 According to the US Department of State report 2001, "There are thousands of grassroots organisations working for social justice and economic advancement of women, in addition to the National Commission for Women. The Government usually supports these efforts, despite strong resistance from traditionally privileged

groups.” [2a](p30) According to the South Asian Women’s Organisations website, several organisations dealing with women’s issues can be found on the website of the South Asian Women’s Network (SAWNET). [25] As noted in FCO correspondence dated November 2003, in 2001, the Government of India drafted The National Policy for Women after consultation with NGO’s, gender experts and sociologists. This policy recognises the constraints women face in the social, economic and political spheres. The Tenth Plan is committed to operationalising this policy. [71]

6.281 According to the UN commissioned report 2001, Women in India, how free, how equal, “Indian women have far greater visibility and voice than they did fifty years ago – they have entered into and created impacts in every sphere of public activity. There are many strong and vibrant movements around issues of importance not only to their own lives, but to the country as a whole. Movements in India – for the right to control and manage natural resources, the right to information, the right to participation in decisions and development – have set the parameters of global debates on these issues. Millions of women are part of these struggles and movements.” “Tangible proof of the relevance and effectiveness of Indian women’s movements, is the fact that the issue of women’s rights is today a central tenet of political and development discourse in India. Affirmative actions for women’s political participation, the implementation of major poverty alleviation programmes through women’s groups, the review of laws and regulations to ensure women’s equality – all demonstrate this recognition at the political level and at the level of policy.” [50](p79)

6.282 Women in India, how free, how equal 2001 states that India has led the world in ratifying UN Conventions and international covenants like the convention of the Elimination of All Forms of Discrimination against Women (CEDAW)... The last few years have seen dramatic increases in the space available for women in Indian society – a consequence of affirmative policies and programmes by the government and initiatives by NGO’s and other civil society groups. Most of all, these changes are the result of years of determined advocacy, campaigning and action for change by women themselves. [50](p13)

6.283 According to the US Department of State report 2003, the Government addressed women’s concerns primarily through the National Commission for Women, but NGO’s were also influential. [2c](p27)

6.284 Amnesty in their Battle against fear and discrimination report welcomed the Policy on Empowerment of Women as a symbol of the government’s commitment to empower women and to bestow rights with equality, however AI criticized the “contradictory character” of the Indian State. [31](p30) Amnesty delegates recognised good administrative policies and practices when they visited Uttar Pradesh and Rajasthan. They saw the idea behind the Zilla Mahila Sahayata Samitits (District Women’s support Committees) in Rajasthan as a positive step, however they levied some criticism. In Rajasthan regular meetings are held between members of the women’s movement and the Home Commissioner and additional Director General of Police, this was seen as an extremely effective mechanism for ensuring that action is taken in several individual cases, however it is dependent on a measure of goodwill established between the women’s movement and organs of government. AI comment that this is absent in many states. [31](p31)

6.285 According to the National Commission for Women website: Legal Awareness Programme, accessed April 2004, "The National Commission for Women regularly extends financial support to NGO's and educational institutions to conduct Legal Awareness Programmes to enable women and girls to know their legal rights and to understand the procedure and method of access to the legal systems." 55 Legal awareness programmes have been conducted.[47a]

6.286 As noted in Amnesty International: India: The battle against fear and discrimination report, "Outside the formal criminal justice system, women in India can turn to other bodies for support and redress. There are a large number of active non-governmental and voluntary organizations which provide legal support to women. However, given their localised nature, the lack of resources available and the vulnerability of such initiatives to pressure from families, police, community or state, these initiatives cannot wholly address the scale of the problem in a country the size of India." [31](p29) According to AI, "Women activists in India have played a crucial role in highlighting the problems faced by women. Delegates saw clear evidence of this in Rajasthan and Uttar Pradesh where alliances of women's organisations come together regularly in protest of incidents of violence and pressure the authorities to take action against the perpetrators. Many victims would be alone without redress for justice, without such pressure...Many of the positive initiatives of the state have been taken as a result of the forceful arguments of the women's movement in India." [31](p6)

6.287 The Centre of Social Research (an NGO for women in India) website lists non-governmental organizations involved in combating violence in Delhi and it states that the organisation can be contacted for help or counselling. Crime Against Women cells throughout Delhi are listed as are a number of shelter homes and counsellors.[54](p1-3)

6.288 SAWNET, an NGO in a Domestic violence report list various organisations available to women who suffer domestic violence, Saski is based in Delhi and helps as a violence intervention for women and children working on sexual harassment, sexual assault, child sexual abuse and domestic violence. Focussing on equality education for judges, implementation of the 1997 Supreme Court Sexual Harassment Guidelines, out reach and education. The Women's Rights Initiative runs a pro bono legal aid cell for domestic violence cases and are associated with law reforms in connection with domestic violence, based in New Delhi. [25a](p1-2)

6.289 As reported by Amnesty in a report on women in Andhra Pradesh and Rajasthan, many states have set up Mahila thanas (women's police stations) to encourage women to register their complaints with the police. However, the majority of these are in large cities, thus denying access to the most marginalised women in rural areas and there are few of them even in large cities. Rajasthan had 9 and was planning to establish a further 3 as at December 2000.[31](p18)

6.290 According to an article in the The Times of India dated 15 May 2003, a two day training programme was organised for the Mahila Samajik Suraksha Samiti (MSSS) at the Pune rural police headquarters in May 2003. The first MSSS was formed in 1986 in Mumbai. The main aim of the MSSS is to address such issues related to women and children as domestic violence, sexual harassment etc. "MSSS also helps distressed women seek rehabilitation, education, legal help and social acceptability." The main focus of appointing rural women as MSSS representatives

in various rural areas was to develop a good rapport with rural women and it was reported that “These women will act as immediate mediators between the police force and women from rural areas.” It was also hoped that it would help improve law and order and curb crimes against women. [13a]

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Children

6.291 According to the US Department of State report 2003, “The Government has not demonstrated a commitment to children’s rights and welfare. The Government does not provide compulsory, free, and universal primary education, and only approximately 59 percent of children between the ages of 5 and 14 attend school. However, in 2002, the lower house of Parliament passed a constitutional amendment giving all children ages 6 to 14 the right to free and compulsory education provided by the State. The amended law also placed an obligation on parents and guardians to provide educational opportunities to these children...No significant sectors or groups actively were excluded from education, but children of wealthier families were more likely to attend school. A significant gender gap existed in school attendance, particularly at the secondary level.” [2c](p27-28)

6.292 According to a UN report dated June 1996, a National Policy for Children has been designed by the Government for the welfare of children and is implemented by the Ministry of Welfare. The Juvenile Justice Act lays down a scheme for the care and protection of neglected and delinquent children. India has ratified the Convention on the Rights of the Child. [6a](p37)

6.293 As cited in the US Department of State report 2003, “The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases. Press reports said that a Madurai NGO had rescued 33 children who had been sold into slave labor during the year. [2c](p35)

6.294 According to the US Department of State report 2003, the Government participated in the ILO’s International Program on the Elimination of Child Labor (IPEC). Approximately 145,000 children were removed from work and received education and stipends through IPEC programs since they began in 1992 “The Government prohibits forced and bonded child labor but did not enforce this prohibition effectively and forced child labor was a problem. The law prohibits the exploitation of children in the work place.” [2c](p34-35)

6.295 The US Department of State report 2003 states that “There is no overall minimum age for child labor. “However, work by children under 14 years of age was barred completely in “hazardous industries,” which includes among other things, passenger, goods and mail transport by railway...child labor was prohibited in certain hazardous industries where there are specific age limits for specific jobs. In occupations and processes in which child labor is permitted, work by children is permissible only for 6 hours between 8 a.m and 7 p.m, with 1 day’s rest weekly.” [2c](p34)

6.296 The US Department of State report 2003 noted that “Government efforts to eliminate child labor affected only a small fraction of children in the workplace. A Supreme court decision increased penalties for employers of children in hazardous industries to \$430 (20,000Rs) per child employed and established a welfare fund for formerly employed children...The Supreme Court ruling also helped make local government officials more aware of the prohibitions against child labor in hazardous industries. This in some cases helped improve cooperation between local officials and NGO's like SACCS that removed children from hazardous workplaces. In the hand-knotted carpet producing area of Uttar Pradesh, the NHRC and NGO's worked with the state government to establish a task force for the elimination of child labor.” [2c](p34)

6.297 According to the US Department of State report 2003, “In its first attempt to address the issue of domestic child labor, during 2000 the Government issued a notification prohibiting government employees from hiring children as domestic help. Those employers who failed to abide by the law were subject to penalties provided by the Bonded Labor System (Abolition) Act (such as fines and imprisonment) and also to disciplinary action at the workplace.” [2c](34-35)

6.298 According to a Human Rights Watch press release dated 23 January 2003, Human Rights Watch first investigated bonded child labour in India in 1996. Since then, the Supreme Court made rehabilitation of child workers a legal requirement, and India's National Human Rights Commission has successfully pressured some local governments to act.[44]

6.299 According to the US Department of State report 2003 “Estimates of the number of child laborers varied widely. The Government census of 1991 put the number of child workers at 11 million. The ILO estimated the number at 44 million, while NGO's stated that the figure is 55 million. Most, if not all, of the 87 million children not in school did housework, worked on family farms, worked alongside their parents as paid agricultural laborers, worked as domestic servants, or otherwise were employed.” [2c](p34)

6.300 As reported in the US Department of State report 2003, “Child Welfare organizations estimated that there were 500,000 street children nationwide living in abject poverty.” [2c](p28) There is child prostitution in the cities, and there are an estimated 500,000 child prostitutes nationwide. “According to an ILO estimate, 15 percent of the country's estimated 2.3 million prostitutes were children, while the UN reported that an estimated 40 percent were below 18 years of age.” [2c](p36)

6.301 According to the US Department of State report 2003, child abuse is specifically prohibited by law. “There were societal patterns of abuse of children; however, the Government has not released comprehensive statistics regarding child abuse.” [2c](p28)

6.302 As noted in the US Department of State report 2003, “The Union Ministry of Social Justice and Empowerment set up a 24-hour “child help line” phone-in service for children in distress in 14 cities. Run by NGOs with government funding, the child help line assisted street children, orphans, destitute children, runaway children, and children suffering abuse and exploitation”. [2c](p28)

6.303 According to the US Department of State report 2003, the Child Marriage Restraint (Amendment) Act prohibits child marriage, a traditional practice in the northern part of the country. The Government does not effectively enforce the minimum age of 18 at which girls may marry. [2c](p28)

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Child Care Arrangements

6.304 According to their website the Ministry of Social Justice provides assistance to State Governments for the establishment and maintenance of a range of children's homes. There are at present 280 "observation homes", 251 "juvenile homes", 36 "special homes" and 46 "after care institutions" in the country. [14](p4)

6.305 The website <http://www.orphanage.org/> lists details of 35 orphanages throughout India. [9]

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Homosexuals

6.306 According to Foreign and commonwealth correspondence dated 1996, Homosexuality as such is not illegal in India. Section 377 of the Indian Penal Code (1860) proscribes "unnatural offences", which are defined as penetrative intercourse "against the order of nature" with man, woman or animal. Certain practices might therefore be deemed illegal in India. However the scope of the definition has not been much tested in the courts and cases under section 377 are rare. [7b] According to a report for the Swedish Embassy by a Delhi law firm 1997, "It is punishable with ten years imprisonment and a fine, however no-one so far, is known to have been awarded a ten year sentence for having been found guilty of this offence. The maximum punishment reported is two years.[48](p2)

6.307 As stated in the Situation of Homosexuals in India report for the Swedish Embassy 1997, "The tolerance towards homosexuals is very much related to the place one lives. In big cities, it is more tolerated than in small towns. There are some homosexual organisations and clubs in Bombay and Delhi but not advertised or publicised as it would be illegal." [48](p3)

6.308 The International Lesbian and Gay Association world legal survey, (last updated in 1999) states that same-sex male sexual activity is illegal and is punishable under Unnatural offences 377 of the Indian penal code.[49]

6.309 As noted in the FCO documentation 1996, the issue of homosexuality is still sensitive in India and is not openly debated to the extent that it is in the West; however society is tending to become more tolerant. There are a number of NGOs, properly registered, in different parts of India which exist to promote the welfare of homosexual men and women. [7b] According to a BBC news article dated 29 May 2001, Homosexual relationships are not unheard of in India, but they generally exist in the country's larger cities where people can be more open about their sexuality. [32ae]

6.310 As reported in A BBC News article dated 29 May 2001, in May 2001, it was reported that a lesbian couple had married in a Hindu ceremony, believed to be one of

the first gay weddings in the country. The marriage still needed the approval of the local registrar to be legalised. The registry office refused to grant approval because Indian law does not recognise gay marriages. Gay rights campaigners however, welcomed the news. [32ae]

6.311 India's gay community has begun to assert itself in recent years, according to a BBC news report dated 29 June 2003, cities such as Bombay and Bangalore have become centres for gay culture. [32bd] The BBC reported on 19 June 2003 that there are regular gay parties in bars and pubs. There are other gay clubs in cities such as Delhi and Bangalore. [32be] It was reported by the BBC on 29 June 2003 that up to 100 people marched in a gay rights parade in Calcutta. [32bd]

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Scheduled Castes and Tribes

6.312 The US Department of State report 2003, notes that "India's caste system has strong historic ties to Hinduism. It delineates clear social strata, assigning highly structured religious, cultural, and social roles to each caste and sub-caste. Members of each caste, and frequently sub-caste, are expected to fulfil a specific set of duties (known as dharma) in order to secure elevation to a higher caste through rebirth. Despite longstanding efforts to eliminate the discriminatory aspects of caste, the practice has remained widespread." [2c](p30) As noted in the US Department of State report 2003, "The Constitution gives the President authority to identify historically disadvantaged castes, Dalits and tribal people (members of indigenous groups historically outside the caste system). These "scheduled" castes, Dalits and tribals are entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programmes." [2c](p31) According to a UNHCR background paper dated October 1998, they include India's aboriginal inhabitants, or Adivasis, who comprise nearly 200 ethnic and culturally distinct peoples who speak more than 100 languages. They are represented in Parliament but as theirs is usually a minority vote, legislation favourable to their interests can be impeded by vested interests. [6e](p17)

6.313 According to the US Department of State report 2003, "The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 lists offences against disadvantaged people and provides for stiff penalties for offenders. However, according to the U.S. Department of State, this Act has only a modest effect in curbing abuse." [2c](p31)

6.314 According to a United Nations report dated June 1996, the National Commission for Scheduled Castes and Tribes was established in March 1992. It serves to ensure observance of the measures taken to promote the educational and economic interests of these groups. These include reservation of seats in public services, administration, Parliament and State legislatures, and the setting up of advisory councils and separate departments for the welfare of vulnerable groups. The Commission has the powers of a civil court in investigating violations of rights guaranteed to Scheduled Castes and Tribes. Affirmative measures are also being taken for disadvantaged groups belonging to Other Socially and Educationally Backward Classes (OBCs). [6a](p9-11)

6.315 According to the US Department of State report 2003, "The practice of untouchability, which affected those who, along with tribal people, occupied the lowest

social strata, was outlawed in theory by the Constitution and the 1955 Civil Rights Act, but it remained an important aspect of life. Untouchability refers to the social restrictions imposed on persons because of their birth into certain Hindu castes.” [2c](p30)

6.316 As noted in the US Department of State report 2001, Dalits (formerly known as untouchables) are a Scheduled Caste occupying the lowest layer of the Hindu caste system.[2a](p30) According to the 2001 census, scheduled castes, including Dalits, made up 16 percent , and scheduled tribes were 8 percent of the country’s 2001 population of 1.027 billion. [2a] (p31)

6.317 According to the US Department of State report 2003, “The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offences against disadvantaged persons and provides for stiff penalties for offenders. However, this act had only a modest effect in curbing abuse. Human rights NGO’s alleged that caste violence was on the increase.” [2c](p31)

6.318 According to Minority Rights Group International bulletin dated 15 March 2004, “Dalits in India who have converted to Christianity not only continue to face caste discrimination, they also lose privileges accorded by the government to Hindu Dalits. Eighty four percent of all Dalits live in rural parts. [52]

6.319 According to a BBC news article dated 1 August 2000, in August 2000, India's ruling Bharatiya Janata Party chose for the first time a lower caste member to be the party's new President. Banguru Laxman, junior Minister for Railways, was the first member of the Dalit community to head a major party. [32s] As reported by the BBC on 14 March 2001, Laxman resigned as President of the BJP in March 2001 over a bribery scandal that implicated several senior political figures and bureaucrats. An Indian website accused Laxman of taking money in connection with supposed defence deals. [32ac]

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6.C HUMAN RIGHTS - OTHER ISSUES

Treatment of Returned Failed Asylum Seekers

6.320 As reported in the Danish Immigration Service fact finding report 2000, UNHCR observed that judging by their general information on Indian nationals who returned after having their asylum applications abroad rejected, returnees did not have problems if they returned with valid travel documents and if their departure had taken place with valid travel documents. Those who had not complied with Indian laws on leaving and arriving in India might be prosecuted. Refused Indian asylum seekers who returned to India with temporary travel documents could enter without any problems as such, but if they arrived after their passport had expired then they would be questioned about the reasons for this. These arrivals were questioned briefly and could then leave the airport. [37]

6.321 As reported in the Danish Immigration Service fact finding report 2000 UNHCR also remarked that in cases where the Indian authorities became aware that the person returning had been refused asylum, it was likely that the immigration authorities would

detain the person briefly for questioning and then release the individual, unless suspicion was aroused by the returnee's behaviour or the individual was being sought by the Indian security services. Those in the latter group would be thoroughly questioned and if they were wanted, would be handed over to the security force in question. According to information available to the UNHCR, such questioning in international airports had not led to the use of violence. [37]

6.322 According to the Danish Immigration Service fact finding report 2000, it would not be seen as an offence to have sought asylum in another country unless the person in question had connections with a terrorist group or a separatist movement and could be connected with activities which might damage India's sovereignty, integrity or security, or activities which might have a harmful effect on India's relations with other countries. For Indian asylum seekers who were already wanted by the Indian authorities for earlier offences such as alleged involvement in a terrorist group, arrival in India would certainly lead to prosecution wherever the Indian citizen landed or went afterwards. [37]

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Treatment of Non-Governmental Organisations (NGOs)

6.323 According to the US Department of State report 2003, "A wide variety of domestic and international human rights groups generally operated without government restriction, investigating abuses and publishing their findings on human rights cases; however, in some states and in a few circumstances, human rights groups faced restrictions. Human rights monitors in Jammu and Kashmir were unable to move around the state freely to document human rights violations due to fear of retribution by security forces and countermilitants." [2c](p24)

6.324 According to a Freedom House survey report of 2003, "Human rights organisations generally operated freely throughout 2002. However, Amnesty International's 2002 annual report noted that the harassment of human rights defenders by state officials and other actors, including beating, shooting, and the use of excessive force by police, remained a concern. An Amnesty International team hoping to assess the situation in Gujarat was denied visas by the Indian Government in July [2002]...A report issued by Human Rights Watch documented numerous cases of police harassment of HIV/AIDS outreach workers in several states." [43](p4)

6.325 According to the US Department of State report 2003, "Several Christian-affiliated international relief agencies stated that during the year [2003] their work in delivering services to the poor became more difficult due to threats, increased bureaucratic obstacles, and, in some case, physical attacks on their field workers by Hindu extremists." [2c](p25)

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ANNEX A: CHRONOLOGY OF EVENTS (Sources: [1a] & [4b] unless otherwise stated)

1947

15 August: Indian gains independence as a Dominion within the Commonwealth, with Lord Mountbatten as Governor-General and Jawaharlal Nehru as Prime Minister.

1950

26 January: India becomes a republic.

1962

Border dispute with China escalates into brief military conflict.

1964

Death of Nehru. Succeeded as Prime Minister by Lal Bahadur Shastri.

1965

Second war with Pakistan over Kashmir.

1966

Death of Shastri. Nehru's daughter, Indira Gandhi becomes Prime Minister.

1971

Third war with Pakistan over Kashmir. The Indian Army occupies East Pakistan, which India recognises as Bangladesh.

1972

Mrs Gandhi and President Bhutto of Pakistan meet in Simla and agree that their respective forces should respect the cease-fire line in Kashmir.

1975

Mrs Gandhi declares a State of Emergency after she is accused of election fraud.

1977

General election: the Janata Party wins and Morarji Desai becomes Prime Minister.

1978

Indira Gandhi becomes leader of a new breakaway political group, the Congress (I).

1979

Resignation of Desai's Government. Charan Singh becomes Prime Minister at the head of a Lok Dal and Congress coalition, which collapses 24 days later.

1980

General election: Congress (I) wins and Mrs Gandhi becomes Prime Minister.

1982

Giani Zail Singh elected Indian President, the first Sikh to hold the position.

1983

October: Following unrest in Punjab, the State is brought under President's Rule.

1984

19 March: The All India Sikh Student Federation (AISSF) is banned. Jarnail Singh Bhindranwale establishes a terrorist stronghold inside the Golden Temple in Amritsar. In June, Operation Blue Star is launched as the army storm the temple.

31 October: Indira Gandhi is assassinated by two of her Sikh bodyguards. Anti-Sikh riots break out. Indira's son, Rajiv Gandhi is appointed Prime Minister.

December: Congress (I) win the general election with an overwhelming victory.

1985

11 April: the ban on the AISSF is lifted.

September: The Akali Dal win elections to the Punjab State Assembly and President's Rule is lifted.

1987

The Congress Government encounter political setbacks including defeats in State elections, an open dispute between the Prime Minister and the President, and accusations of corruption and financial irregularities against senior Congress figures, including the Bofors affair.

11 May: The Punjab State Assembly is suspended and President's Rule is imposed.

October: Formation of the Jan Morcha by V.P. Singh and other Congress (I) dissidents.

1988

May: Operation Black Thunder - Punjab police and Indian paramilitary forces besiege the Golden Temple in Amritsar.

Formation of Janata Dal to oppose Congress at forthcoming elections.

1989

November: general election in which Congress loses its majority. V.P. Singh is appointed Prime Minister of a National Front coalition with the support of the BJP.

1990

October: The BJP withdraws support for the Government, following the arrest of the BJP leader Lal Krishna Advani as he led a procession of Hindus to Ayodhya in Uttar Pradesh to begin the construction of a temple on the site of an ancient mosque. Clashes between police and crowds, and Hindu extremists storm and damage the mosque.

November: Chandra Shekhar forms his own dissident faction called the Janata Dal (S). The Government loses a vote of confidence in Parliament and V.P. Singh resigns. Chandra Shekhar appointed Prime Minister at the head of a minority Government with Congress (I) support.

1991

March: Chandra Shekhar resigns as Prime Minister

May: General election held, but on 21 May, after the first day's polling, Rajiv Gandhi is assassinated by members of the Sri Lankan militant group, the Liberation Tigers of Tamil Eelam (LTTE). Congress emerges as the largest party and forms a Government with P.V. Narasimha Rao as Prime Minister.

1992

February: State Assembly elections in Punjab won by Congress (I), but there is a low turnout of the electorate. President's Rule lifted. Municipal elections held in September with a greatly increased turnout. The Congress candidate, Dr Shankar Dayal Sharma is elected President of India.

6 December: demolition of the Babri Masjid, the ancient mosque in Ayodhya, Uttar Pradesh, by Hindu mobs. This sparks off widespread communal violence throughout India with Mumbai (Bombay) one of the worst affected areas. BJP leaders arrested, the Uttar Pradesh Chief Minister resigns and the State is placed under President's Rule, as are three other States also under BJP control. Five communal organisations are also banned.

1993

January: Resurgence of communal violence in Mumbai and in Ahmedabad in Gujarat.

February: Thousands of BJP activists are arrested throughout India to prevent a mass rally taking place in New Delhi.

March: Bomb explosions in Mumbai.

1995

31 August: Assassination of the Chief Minister of Punjab, Beant Singh. Harchan Singh Brar appointed Chief Minister.

1996

Accusations of corruption come to the fore with leading politicians allegedly receiving bribes from the industrialist Surendra Jain (Hawala scandal).

April/May: General election. No party gains an overall majority, but the BJP emerge as the largest party. On 15 May, Atal Behari Vajpayee of the BJP forms a Government, but resigns on 28 May. On 1 June H.D. Deve Gowda is appointed Prime Minister at the head of United Front coalition of 13 parties, supported by Congress (I).

1997

30 March: Congress (I) withdraws support for the United Front Government. The crisis is resolved by the resignation of the Prime Minister, Deve Gowda, and the appointment of the External Affairs Minister, Inder Kumar Gujral, as Prime Minister on 21 April.

July: K.R. Narayanan elected President of India, the country's first President from an "untouchable" caste.

November: Congress (I) demand the withdrawal of the DMK from the Government, following allegations of its involvement in the assassination of Rajiv Gandhi. The Government refuses, and Congress withdraws its support.

4 December: Parliament dissolved. Gujral heads a caretaker Government until the general election is held.

1998

February/March: General election. No party wins a majority, but the BJP emerges as the largest party and Atal Behari Vajpayee forms a Government in coalition with 17 other parties. The Government wins a confidence vote on 28 March. [5b]

May: Tension rises between India and Pakistan as India conducts five underground nuclear tests, and Pakistan conducts six tests. [5c]

November: the BJP suffers defeats in the State elections in Delhi and Rajasthan, and fails to dislodge Congress (I) from control of Madhya Pradesh.

December: escalation of violence against the Christian minority in Gujarat.

1999

April: The AIADMK withdraws support from the Government coalition, which resigns after losing a vote of confidence in the Lok Sabha. The President dissolves Parliament and calls an election.

May-July: A serious escalation of the conflict with Pakistan in Kashmir occurs in response to the largest infiltration of Islamic guerrillas into the State in recent years. On 11 July India and Pakistan had agree on a plan for the infiltrators to withdraw. [5d] & [8n]

September/October: General election. BJP re-elected under Vajpayee. [33a]

2000

March: 36 Sikhs killed by unidentified gunmen in Chadisinghpooora, the first such attack on the Sikh community in Kashmir. [3h]

July-August: Militant group Hizbul Mujahedin announces a unilateral cease-fire in Kashmir [32r] but calls it off after India refuses to enter three-way peace talks with the Kashmiri leadership and Pakistan. [32u] Violence ensues during [32t] and immediately after the cease-fire. [33f]

November: The Indian Government announces a unilateral cease-fire barring Indian forces from offensive operations against Muslim separatists in Kashmir. Extensions of the cease-fire were made a month at a time, before a three month extension to the end of May 2001. Militant groups reject the cease-fire. [32ab]

2001

May: The cease-fire in Kashmir announced in November 2000 by the Government is ended as some 1,200 people had died during its period of operation. [5g]

July: Talks between India and Pakistan fail after the two countries fail to reach an agreement over Kashmir. [15b]

13 December: A terrorist attack on the federal Parliament in New Delhi leaves 14 dead and 16 wounded. The attack precipitates a crisis with Pakistan which threatens to erupt into war over the disputed Kashmir region. [5j]

2002

13-21 February: Elections to four State assemblies (Manipur, Punjab, Uttaranchal and Uttar Pradesh) result in heavy losses for the BJP. [5j]

27 February: At least 58 passengers are burnt to death and 43 injured when a train carrying Hindu activists is attacked in Godhra, Gujarat. A wave of communal violence is triggered across the State. [5j] By 12 March 2002, mob attacks and arson had claimed an estimated 700 lives, most of them Muslim. [5k]

26 March: The Prevention of Terrorism Ordinance (POTO) is passed into law. [5k] Having been promulgated in October 2001, the POTO replaced the TADA. [5h]

21 May: Moderate Kashmiri separatist leader Abdul Ghani Lone is shot dead. [5m]

May-June: India and Pakistan move closer to outright war over the deteriorating situation in Kashmir. Up to a million troops face each other across both the Line of Control and the international frontier between the two countries. The situation worsens when, on 14 May 2002, 34 people are killed in a militant attack on an army base in Kashmir, the dead including 8 women and 11 children from army families. Tensions are lowered somewhat in June 2002, largely as a result of international pressure. [5m] & [5n]

July Dr A.P.J. Abdul Kalam, a Muslim, is sworn in as India's 12th President. [32ai]

October: Voting concludes in Kashmir State elections. The ruling National Conference party fail to win a majority. [32ak] Mufti Mohammad Sayeed is sworn in as chief minister to head a coalition of his PDP and the Congress Party for three years, before a Congress leader takes over for a second three year period. [32am]

December: The BJP wins State elections in Gujarat. [32an]

2003

In 2003 both India and Pakistan continued testing missiles.[32bg]

March

Twenty four Hindu villagers were murdered in Kashmir.[32bg]

April

Prime Minister Vajpayee to hold talks with Pakistan [32bg]

Mr Vajpayee made a surprise speech calling for an end to more than 18 months of simmering tensions with Pakistan, prompted by an attack on the Indian parliament, as reported by BBC on 6 January 2004. [32cj]

June

India, China reach de facto agreement over status of Tibet and Sikkim in landmark cross-border trade agreement. [32bf]

The state assembly in Gujarat passed a Freedom of Religion Bill introduced by the BJP government, ostensibly designed to prevent forced religious conversions. [5o]

August

25 August – Blast at Zaveri Bazaar, 34 killed and 112 injured. Blast in a taxi parked near the Gateway of India, 18 killed, 37 injured. [11e]

Four people were arrested and charged in connection with the twin bomb attacks in Mumbai. India has blamed the attacks on an outlawed Islamic militant group – Lashkar-e-Toiba- in the Pakistani controlled part of the disputed region of Kashmir. [32bi] The four charged are Muslims, charged under the anti-terrorism laws. [41b]

September saw a sudden upsurge in separatist violence across the state. Indian troops claimed to have foiled at least 18 infiltration bids by militants in September alone. [32bu]

The Line of Control witnessed increased exchanges of fire between the armies of India and Pakistan. [32bu]

1 September – Blast near key Kashmir tunnel killed a bomb disposal expert and injured 2 security force members. [32bj]

Indian police claimed to have shot dead the mastermind behind the twin bomb blasts in Mumbai that killed 53 people and wounded more than 150 on 25 August 2003. Five people have been detained in connection with the bombings. [45a][32bz]

13 November At least 50 train passengers were injured in attacks by armed mobs in Bihar. Youths were protesting over alleged discrimination against Biharis who had tried for jobs with Indian railways in neighbouring Assam, as reported by BBC news on 13 November 2003 [32cl]

November 12 Hindus given life prison sentences in Gujarat state for killing Muslims in religious riots last year, as reported by BBC on 21 November 2003. [32cq]

25-26 November 2003 A ceasefire came into effect at midnight on 25-26 November between the armies of India and Pakistan on the LoC in Kashmir. The ceasefire was reportedly fully implemented by both sides, as reported by Keesings. [5r]

5 December India's Hindu-nationalist BJP celebrated sweeping election wins in three states held by the Congress party, as reported by BBC news on 5 December

2003.[32ck] Keesings news Digest for December 2003 reported that the BJP secured administrations in Rajasthan, Madhya Pradesh and Chattisgarh giving rise to speculation that Prime Minister Vajpayee would bring forward the date of the general elections due in October 2004. [5s]

7 December 2003, Ayodhya anniversary sparks riots as reported by BBC news 7 December 2003. At least 3 people were killed and more than 20 injured in clashes between Muslims and Hindus in Hyderabad when trouble erupted on the 11th anniversary of the razing of the Babri mosque in Ayodhya.[32cn]

2004

1 January 2004 Direct air links were resumed between India and Pakistan after a gap of more than 2 years.[keesings]

5 January 2004 The leaders of Pakistan and India met for the first time in 2 years, promising to restore normal relations, as reported by Guardian Unlimited.[40a]

6 January 2004 Pakistan and India have agreed to discuss the Kashmir issue in historic talks due to start in February. It came a day after President Musharraf hosted talks with India's Atal Behari Vajpayee, reported by BBC on 6 January 2004.[32cj]

9 January 2004 At least 15 Muslims were wounded in Indian administered Kashmir in a grenade attack on a mosque, as reported by BBC news on 9 January 2004.[32cm]

27 January The Prime Minister convey to the President on 27 January the recommendation of the Cabinet to dissolve the 13th Lok Sabha on 6 February to pave the way for early legislative elections in April. The final parliamentary session began on 29 January. [5t]

February

3 days of talks to be held in February in Islamabad starting on 16 February with disputed region of Kashmir top of the agenda. Joint secretary talks on February 16-17 to be followed by a one-day meeting of foreign secretaries on 18 February.[32co][32cp]

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ANNEX B: POLITICAL ORGANISATIONS (Sources [1a] [51] & [71] unless otherwise stated)

All India Anna Dravida Munnetra Kazhagam (All India Anna Dravidian Progressive Association)

A Tamil Nadu party, with its headquarters in Chennai (Madras). Founded in 1972 as a breakaway group from the DMK. It went into the 1998 national elections in alliance with the BJP and joined the BJP-led Government afterwards. However its withdrawal of support in April 1999 led to the collapse of the Government and another national election. Leader: Jayaram Jayalalitha, party secretary general.

All India Forward Bloc

Founded 1940 and has socialist aims, including nationalisation of major industries, land reform and redistribution. A minor Marxist-Leninist ally of CPI-M in West Bengal.

All India Trinamool Congress

Breakaway group of the Congress (I) in West Bengal. Part of the BJP-led NDA Government. Led by: Mamata Banerjee.

Asom Gana Parishad (AGP) (Assam People's Council)

Founded 1985. Draws support from the All Assam Gana Sangram Parishad and the All Assam Students' Union.

Bahujan Samaj Party

Formed in 1980 as the champion of scheduled castes and is strong in Uttar Pradesh, where it briefly formed the Government in alliance with the BJP in 1996. Led by Kanshi Ram.

Bharatiya Janata Party (Indian People's Party)

The leading political party of the 24-party National Democratic Alliance (NDA) governing coalition, which has downplayed its Hindutva associations since coming to power in 1998 in order to accommodate secular NDA partners. The BJP was formed in 1980 from the former Bharatiya Jana Sangh, founded in 1951 as the political wing of the Rashtriya Swayamsevak Sangh. The BJP's Women's Front is known as the Mahila Morcha. [51]

Biju Janata Dal (BJD)

Made up of almost the entire Janata Dal unit of Orissa, who formed the BJD because of neglect by the Janata Dal national leadership. Main Government party in Orissa. An ally of the BJP. Led by Naveen Patnaik (Chief Minister of Orissa).

Communist Party of India (CPI)

Founded 1925 and advocates the establishment of a socialist society led by the working class, and ultimately of a communist society. Support in West Bengal, Bihar and Kerala. General-Secretary: Ardhendu Bhushan Bardhan.

Communist Party of India - Marxist (CPI-M)

Formed in 1964 as a pro-Beijing breakaway group from the CPI. Declared its independence of Beijing in 1968. In power in West Bengal since 1977. Support also in

Tripura and Kerala. In October 2000, the Election Commission demoted CPI-M's status from that of a national party to a State party. General-Secretary: Harkishan Singh Surjeet.

Congress (I)

Party of Indian independence, then of Government for 45 of the following 50 years under Nehru, his daughter Indira Gandhi and grandson Rajiv Gandhi. Had support throughout India, but suffered massive losses in the North and partially in the West in 1998 and lost the confidence of traditional voters such as Muslims and scheduled castes. Sonia Gandhi, widow of Rajiv Gandhi, took over as President of Congress (I) in April 1998, and under her leadership the party made significant gains in the 1998 State elections to take over the Government of Delhi and Rajasthan and retain control of Madhya Pradesh. But it registered its worst ever performance in the Lok Sabha elections of September/October 1999 when it won just 111 seats.

Dravida Munnetra Kazhagam (DMK)

Founded in 1949. Supports greater federalism; resents northern domination. Exclusive to Tamil Nadu and supported primarily by locally dominant backward castes. Member of National Democratic Alliance. Led by Muthuvel Karunanidhi (President)

Indian Union Muslim League

Concerned with the interests of the Muslims of Kerala.

Jammu and Kashmir National Conference (JKNC)

Headquarters in Srinagar. Formerly All Jammu and Kashmir National Conference. Founded 1931, renamed 1939, reactivated 1975. A State-based party campaigning for internal autonomy and responsible self-government. Accepts accession to the Indian Union.

Janata Dal (United)

Formed on the eve of the 1999 Lok Sabha election due to a split in the Janata Dal over whether to ally with the BJP in the National Democratic Alliance. The JD(U) favoured the alliance. Strong support base in Bihar. Led by Sharad Yadav.

Janata Dal (Secular)

A smaller section of the Janata Dal did not agree with an alliance with the BJP and formed the Janata Dal (Secular). Led by former Prime Minister, H.D. Deve Gowda.

Kerala Congress (M)

Concerned with the interests of the Christians of Kerala.

Nationalist Congress Party

Formed in 1999 by Sharad Pawar, a senior Congress (I) leader from Maharashtra, and others expelled from Congress (I) for being unwilling to accept Sonia Gandhi, a non-Indian born citizen, as Congress' candidate for Prime Minister. Formed coalition Government with Congress (I) after State elections in Maharashtra.

Rashtriya Janata Dal (RJD) (National People's Party)

Formed in 1997 by a breakaway group of former Janata Dal MPs from Bihar. Supported by the backward Yadav caste and Muslims of Bihar. Led by Laloo Prasad Yadav.

Revolutionary Socialist Party

Minor Marxist-Leninist party allied with CPI-M, and supported in West Bengal.

Samajwadi Party (Socialist Party)

Emerged from V.P. Singh's Janata Dal as an aggressive champion of specific backward castes and Muslims. Supports reservations for jobs and education. Support confined to Uttar Pradesh. Led by Mulayam Singh Yadav.

Samajwadi Janata Party

The one-man party of Chandra Shekhar, a former Prime Minister.

Samata Party

A breakaway from V.P. Singh's Janata Dal. Supported by backward castes mainly in Bihar and also in Uttar Pradesh.

Shiromani Akali Dal

A moderate Sikh party controlled by the dominant Jat Sikh farming community of Punjab. Supports greater federalism and is a strong ally of the BJP. Main leader is Prakash Singh Badal.

Shiv Sena (Shiva's Army)

A member of the NDA and more hard line than the BJP, Shiv Sena is based in Mumbai (Bombay), the capital of Maharashtra State, and is led by Bal Thackeray. [51]

Tamil Maanila Congress (TMC)

Broke away from Congress (I) in 1996 in protest against Rao's decision to fight elections with the AIADMK. Policies not otherwise distinct from Congress (I). Confined to Tamil Nadu.

Telugu Desam Party (NAIDU) (Telugu Nation)

Founded in 1982 by Telugu film star N.T. Rama Rao, who died in 1996. Based in Andhra Pradesh, and is supported by locally dominant middle castes. Led by N. Chandrababu Naidu, Chief Minister of Andhra Pradesh.

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OTHER ORGANISATIONS**Rashtriya Swayamsevak Sangh (RSS) - (Association of National Volunteers)**

A Hindu supremacist umbrella organisation, founded in 1925 by Keshav Baliram Hedgewar. Prime Minister Vajpayee, most BJP ministers and leading members of the party are RSS members. The RSS was banned between December 1992 and June 1993 for its role in the destruction of the Babri mosque at Ayodhya in 1992. [51]

All India Sikh Student Federation (AISSF)

The AISSF was founded in 1944. Its founder President was Sardar Swarup Singh. It was the first body to pass a resolution seeking the formation of a separate Sikh homeland. Its other objectives were to promote and propagate Sikhism amongst the college-going Sikh students. While the AISSF sought a separate Sikh homeland, it did not fight for it until militancy erupted under Bhindranwale in 1981. From then onwards, a number of AISSF members joined the ranks of the militants. [7d] The organisation was banned between 19 March 1984 and 11 April 1985. [4b]

Bajrang Dal

The youth wing of the [VHP]. Banned between December 1992 and June 1993, Bajrang Dal was originally formed in the 1980s to counter “Sikh terrorism”, but has since then shifted to militant activism against the Muslim and Christian minorities. [5i]

The People’s War Group (PWG)

Banned guerrilla organisation. Campaigns to establish Communist state in the tribal areas of Andhra Pradesh, Maharashtra, Orissa, Bihar and Chhattisgarh. Peace talks between the PWG and the Government broke down in July 2003 when the government decided to renew its ban on the group. [43]

Sangh Parivar (Family of Associations)

The Sangh Parivar is the collective name for the various loosely associated Hindu nationalist organisations. All embraced the concept of Hindutva (“Hindu-ness”), Hindu nationalism, and an ideal of Hindu supremacy in India, often called “saffron power”. The Hindutva project was intended to redress supposed grievances deriving from the contamination of Hindu India by Islam and Christianity, two religions that refused to incorporate the Hindu caste structure. [5i]

Vishwa Hindu Parishad (VHP) – World Council of Hindus

Led by Ashok Singhal. [5n] Right-wing ally of the BJP, concerned explicitly with religious matters, founded in August 1964. The VHP was banned between December 1992 and June 1995 for its role in the destruction of the Babri mosque in Ayodhya. A wealthy organisation, the VHP is partly funded by donations from Hindu communities abroad, especially the USA. The VHP’s militant women’s wing is known as Durga Vahini. [5i]

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ORGANISATIONS PROSCRIBED IN THE UNITED KINGDOM UNDER THE TERRORISM ACT 2000 Source: [15a]

International Sikh Youth Federation

Babbar Khalsa

Harakat Mujahideen (alternatively Harkat-ul-Mujahideen)

Jaish e Mohammed (alternatively Jaish-e-Mohammad)

Lashkar e Tayyaba (alternatively Lashkar-I-Toiba)

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ANNEX C: PROMINENT PEOPLE

ABDUL KALAM Dr. A.P.J.

Sworn in as India's 12th President in July 2002. A Muslim, an eminent scientist and architect of India's missile programme.

ABDULLAH Farooq

Chairman of the National Conference, was sworn in as Chief Minister of Jammu and Kashmir in October 1996 following the party's win in the State elections. On 23 June 2002, he handed on the presidency of the National Congress (Conference) party to his son, Omar Abdullah.

ADVANI Lal Krishna

Deputy Prime Minister in the Bharatiya Janata Party-led coalition Government which took office in March 1998 and a former President of the BJP. In 1990 he led a procession of Hindu devotees to Ayodhya in Uttar Pradesh, to begin the construction of a Hindu temple on the site of a disused ancient mosque. He was accused of deliberately inciting inter-communal hatred by exhorting Hindu extremists to join him in illegally tearing down the mosque. Advani was arrested along with thousands of Hindu activists. The Ayodhya issue came to the fore again in December 1992 when the mosque was torn down by Hindu militants. Advani was again arrested along with other BJP leaders amidst the violence that followed the demolition.

BHANDARI Sundar Singh

Governor of Gujarat.

BHINDRANWALE Jarnail Singh

A charismatic Sikh religious leader who first appeared in 1977. He preached strict fundamentalism and an armed struggle for national liberation. He was arrested following the killing of Lal Jagat Narain, editor of a pro-Hindu newspaper, in 1981. He was released immediately, but his prestige increased among young Sikhs. Sikh unrest escalated and 10,000 Sikhs barricaded themselves in the Golden Temple in Amritsar. Operation Blue Star was initiated by then Prime Minister, Indira Gandhi, and the temple was besieged and shelled by the army. Thousands were killed, among them Bhindranwale.

DEVE GOWDA H.D.

A former Chief Minister of Karnataka, Deve Gowda was selected to lead the 13 party United Front coalition and he took office as Prime Minister in May 1996. He was forced to resign as Prime Minister in April 1997 after Congress (I) withdrew its parliamentary support for the Government.

GANDHI Indira

Daughter of India's first Prime Minister, Jawaharlal Nehru. She became Prime Minister in 1966 leading the Congress Government and held office until she was defeated in the 1977 general election. She resumed office in 1980. She was assassinated in October 1984 by Sikh members of her personal guard in retaliation for the Indian Army's storming of the Golden Temple in Amritsar earlier that year.

GANDHI Rajiv

Son of Indira. He entered politics after the death of his brother Sanjay in an air crash in 1980. He was elected to his brother's constituency in 1981 and became a General Secretary of Congress (I) in 1983. He was sworn in as Prime Minister in October 1984 immediately after his mother's assassination. He led the Congress party to a decisive election victory in December 1984, but was defeated in the next elections in November 1989. On 21 May 1991 after the first day of voting in the general election, Gandhi was assassinated by members of the Sri Lankan Tamil separatist group, the Liberation Tigers of Tamil Eelam (LTTE), while campaigning in Tamil Nadu.

GANDHI Sonia

Italian-born widow of former Prime Minister Rajiv Gandhi. She refused to become involved in politics after her husband's assassination, but was a leading figure in the Congress (I)'s 1998 general election campaign and was credited with being responsible for the party's better than expected tally of seats. She became President of Congress (I) in March 1998. She attempted, but failed, to form a Congress-led Government following the collapse of the BJP led Government in April 1999.

GUJRAL Inder Kumar

Minister of External Affairs in the United Front Government, Gujral became Prime Minister on 22 April 1997, after Congress (I) reinstated its support for the UF Government providing that the former Prime Minister, Deve Gowda, was replaced. Gujral and the UF Government resigned in December 1997, when Congress (I) withdrew its support for the Government.

MODI Narendra

Gujarat's Chief Minister (BJP)

NARAYANAN Kocheril Raman

Elected President of India in July 1997, the first Dalit President. Served until July 2002, and as Vice-President from 1992 to 1997.

SINGH Beant

Took office as Chief Minister of Punjab following the State elections of February 1992. His Government pursued a counter-insurgency policy which saw normality return to Punjab. He was assassinated in August 1995 in a car bomb explosion.

VAJPAYEE Atal Behari

Prime Minister of India. The Bharatiya Janata Party emerged as the largest party in the Lok Sabha after the 1998 general election and he was appointed Prime Minister on 15 March 1998. His coalition Government lost a vote of confidence in April 1999 and the Government resigned. Vajpayee was re-elected to office at the head of a BJP-led coalition in the general election held in September/October 1999.

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